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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket No. FCIC–11–0007]

RIN 0563–AC36

Common Crop Insurance Regulations; Prune Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations, Prune Crop Insurance Provisions. The intended effect of this action is to provide policy changes and clarify existing policy provisions to better meet the needs of insured producers, and to reduce vulnerability to program fraud, waste, and abuse. The changes will apply for the 2013 and succeeding crop years.

DATES: This rule is effective October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO, 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053.

E-Government Act Compliance

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

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or action by FCIC directing the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11, or 7 CFR part 400, subpart J for determinations of good farming practices, as applicable, must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This rule finalizes changes to the Common Crop Insurance Regulations (7 CFR part 457), Prune Crop Insurance Provisions that were published by FCIC on December 5, 2011, as a notice of proposed rulemaking in the **Federal Register** at 76 FR 75805–75809. The public was afforded 60 days to submit comments after the regulation was published in the **Federal Register**.

A total of 31 comments were received from 2 commenters. The commenters were an insurance provider and an insurance service organization.

The public comments received regarding the proposed rule and FCIC's responses to the comments are as follows:

General

Comment: A few commenters stated they agree with the proposed change to remove the quality adjustment provisions from the Prune Crop Provisions.

Response: FCIC thanks the commenters for their review of the proposed rule and for their support.

Section 3—Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

Comment: A few commenters stated the ''Background'' of the proposed rule indicates that the phrase ''varietal group'' is being replaced by the word ''type'' everywhere it appears. It goes on to indicate that prunes are not categorized by varietal group in the Special Provisions rather they are categorized by type. In addition, section 6(c) has been revised to remove the requirements for the insured crop to be grown on tree varieties that were commercially available at set out and on tree varieties that are adapted to the area and replacing those requirements with a list of varieties (assume this means types) as shown in the Special Provision. The current Special Provisions for prunes list the type as ''No Type Specified 997.'' The commenters asked if there are plans to change the Special Provisions to list all of the insurable types in lieu of ''No Type Specified 997'' or will there be a separate listing of all of the possible insurable varieties somewhere else in the Special Provisions besides under the ''type'' designation where all such varieties will be listed to comply with the new proposed rule language.

Response: For ease of administration, FCIC intends to classify the prune types as ''Type 997'' and then provide a list of all insurable types that qualify as a type 997.

Comment: A few commenters questioned using the word ''bearing'' in section 3(b)(2). The commenters stated producers are required to report their uninsurable acres and when trees are first planted they will be non-bearing. The commenters asked if it is really the intent for producers to report zero trees on their uninsurable acres. The commenters stated that if the block consists of older trees and younger interplanted trees of the same variety, and the insurance provider only counts the bearing trees, they will have inconsistencies with the acres, the tree spacing, and the density. If producers remove many older trees and replace them with younger trees, they will need to report them on the Producer's Pre-Acceptance Worksheet (PAW) as they have performed cultural practices that will reduce the yield from previous levels. Producers should be required to report all trees and this number should remain constant until they remove trees or plant new trees. Insurance providers should not be required to track only the trees that are bearing and be required to revise this figure each year.

Response: No changes were proposed to this provision and the comment does not address a conflict or vulnerability in the provision. Therefore, FCIC cannot consider the recommended change because the public was not given an opportunity to provide comments. No change has been made to the final rule. However, in response to the concerns raised, the information that must be submitted in accordance with section 3(b) is required to establish the producer's actual production history (APH) approved yield and the amount of their coverage. While section 3(b)(2) only requires the bearing trees on insurable and uninsurable acreage to be reported, the number of bearing and non-bearing trees on insurable and uninsurable acreage must be reported on the PAW. Perennial crop policies contain provisions for ''bearing trees'' to identify such trees that meet the eligibility requirements for insurance coverage. Since premium and indemnity payments are based on the number of trees that meet eligibility requirements, insurance providers are required to track bearing trees as outlined in the Crop Provisions and the Crop Insurance Handbook (CIH). Requiring all trees be reported under section 3(b)(2) would create confusion regarding insurability and could result in the overstatement of premium and liability.

Comment: In regard to section 3(b)(3), a commenter questioned the need to know the planting pattern. This requires space on the PAW that could better be used to ask if the producer is ''intending to direct market'' any portion of their crop. Insurance providers already capture tree spacing and tree count and this is what is needed to determine if there have been tree removals or acreage reductions.

Response: No changes were proposed to this provision and the comment does not address a conflict or vulnerability in the provision. Therefore, FCIC cannot consider the recommended change because the public was not given an opportunity to provide comments. No change has been made to the final rule. However, with respect to the concerns expressed by the commenter, the planting pattern consists of tree spacing and arrangement. FCIC requires the producer to report the planting pattern so the insurance provider can use this information to determine if there is adequate tree spacing for the producer to carry out recommended orchard management practices and to determine the number of trees per acre.

Comment: In regard to section 3(c), a commenter stated there appears to be a lack of consistency between similar perennial crops whose Crop Provisions were recently revised or issued. The Olive, Pear and Macadamia Nut Crop Provisions all contain similar if not the same verbiage as found in the Prune Crop Provisions prior to this Proposed Rule. On the other hand, the Stonefruit Crop Provision language is very similar to the Prune Crop Provision Proposed Rule language with the significant difference in that the results as found in (c)(1), (2) and (3) are hinged upon when the situation ''occurred'' as opposed to when the situation was ''reported.'' This is a very significant difference. The commenter proposes some level of similarity and/or consistency be used for this provision for perennial crops.

Response: FCIC agrees with the commenter and the provision has been revised by changing the term ''reported'' to ''occurred.''

Comment: A few commenters stated the last sentence in section 3(c)(3) states ''We will reduce the yield used to establish your production guarantee for the subsequent crop year.'' The commenters question what if the event that occurred was something that only affects the crop for the year in question and has no carryover effect on the yield into the next year. In this type of situation the yield used to establish the

production guarantee for the next year should not be affected by the event that occurred. However, based on the above referenced language, the yield would have to be reduced and reduced by the same amount as determined during the year in which the event occurred. This language needs to be revised to provide the insurance providers with some latitude as to whether the subsequent years yield should be reduced and to what extent it should be reduced. The producer could also have certain events that occur which have some effect on the next year, but the effect is less than the production that was assessed for the year in which the event occurred. Therefore, this sentence needs to be modified to allow the insurance providers to have some flexibility to be able to determine how much, if any, the yield should be reduced for the subsequent crop year.

Response: FCIC agrees with the commenter that some latitude should be allowed to determine if the yield should be reduced in subsequent years. FCIC has revised section 3(c)(3) to state the insurance provider ''may'' reduce the yield used to establish your production guarantee for the subsequent crop year to reflect any reduction in the productive capacity of the trees.

Comment: A few commenters stated section 3(d) states ''You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election we offer if a cause of loss that could or would reduce the yield of the insured crop is evident prior to the time that you request the increase.'' The commenters feel this is a difficult provision to administer and recommend it be removed from the policy. The PAW contains the following question: ''Has damage (i.e., disease, hail, freeze) occurred to Trees/Vines/Bushes/Bog or have cultural practices been performed that will reduce the insured crop's production from previous levels?'' If damage has occurred, and the question has been answered ''Yes,'' the approved APH yield will be adjusted accordingly to reflect the reduced potential production. This question on the PAW appears to address the issues this section is intending to handle. In addition, the sales closing dates are generally established based on the precept that any applications taken by that date will not be subject to adverse selection.

If the decision is made to retain this provision, it might help to clarify what time frame is meant by ''* * * if a cause of loss * * * is evident prior to the time that you request the increase.'' A cause of loss that occurred the previous crop year would be ''prior to the time that you request the increase.'' Consider rewriting something like: ''Your request to increase the coverage level or price election percentage will not be accepted if a cause of loss that could or would reduce the yield of the insured crop is evident when your request is made.''

Response: No changes were proposed to this provision and the comment does not address a conflict or vulnerability in the provision. Therefore, FCIC cannot consider the recommended change because the public was not given an opportunity to provide comments. However, FCIC will consider this change the next time the Prune Crop Provisions are revised. No change has been made to the final rule.

Section 6—Insured Crop

Comment: A few commenters stated the proposed language in section 6(c) states ''That are grown on trees [change from ''tree varieties''] that: (1) Are listed in the Special Provisions * * *.'' The commenters suggested keeping the original ''tree varieties'' (or ''varieties of trees,'' if preferred) since the Special Provisions presumably will list the ''insurable varieties'' (as stated in the ''Background'') rather than some other description of ''trees.'' If this change is not accepted, at the very least section (c)(1) needs to include ''varieties'' after the word ''Are''.

Response: FCIC agrees with the commenters. Since FCIC will list the insurable types of trees in the Special Provisions, the phrase ''insurable types'' has been added to section 6(c)(1).

Comment: A few commenters stated the 2001 Prune Crop Provisions reads ''Are irrigated (except where otherwise provided in the Special Provisions)'' but this would be deleted according to the ''Background'' because insurable practices are listed in the Special Provisions. The commenters question if this is a good argument; if so, why would 6(c)(1) be needed since the tree varieties also are listed in the Special Provisions? The commenters state that generally the Crop Provisions identify irrigated as the insurable practice when non-irrigated is not an equally available practice for the crop. This would seem to be more informative than having the Crop Provisions be silent on that matter and identifying any limitation of insurable practices only in the Special Provisions. The commenters recommended this section of the policy be retained as a part of the Final Rule.

Response: FCIC agrees with the commenters. The original language from section 6(c)(4) requiring crops to be grown on acreage that is irrigated has been retained.

Section 8—Insurance Period

Comment: A few commenters recommended combining sections 8(a)(1) and 8(c) since both identify when coverage begins, (a)(1) for the year of application, and (c) for subsequent crop years.

Response: FCIC agrees with the commenters. Sections 8(a)(1) and 8(c) have been combined under section 8(a)(1).

Comment: A few commenters stated the phrase ''after an inspection'' should be removed from section 8(b)(1). If damage has not generally occurred in the area where such acreage is located, it should be at the insurance provider's discretion to decide whether the acreage needs an inspection to be considered acceptable. The language in this section already refers to the insurance providers having the ability to consider the acreage acceptable. Since the acreage and production reporting dates are after insurance attaches, the insurance provider may not know if the acreage was acquired after coverage began, but before the acreage reporting date. The insurance provider needs the right to inspect if they deem necessary, but this should not be a requirement. The commenters also recommended additional language be added to section 8(b)(1) to allow insurance providers the opportunity to inspect and insure any additional acreage that is acquired after the acreage reporting date if they wish to do so. Insurance providers should have the opportunity to accept or deny coverage in these types of situations. This would be similar to what is currently allowed for acreage that is not reported per section 6(f) of the Basic Provisions.

Response: No changes were proposed to this provision and the comment does not address a conflict or vulnerability in the provision. Therefore, FCIC cannot consider the recommended changes because the public was not given an opportunity to comment. No change has been made to the final rule. However, with respect to acreage acquired after the acreage report, section 6(f) of the Basic Provisions, which allows the insurance provider to determine by unit the insurable crop acreage, share, type and practice, or to deny liability if the producer fails to report all units, would apply. FCIC approved procedures allow the insurance provider to revise an acreage report to increase liability if the crop is inspected and the appraisal indicates the crop will produce at least 90 percent of the yield used to determine the guarantee or amount of insurance for the unit.

Comment: A commenter stated the provision in section 8(c) has been added to most, if not all, of the perennial crops. The commenter agrees with the concept of continuous coverage applying for carryover producers, but has some concerns with language as it currently reads. The present language indicates for each subsequent crop year the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. The commenter raised issues about damage that occurs to next year's buds prior to this year's end of the insurance period date. The commenter asked whether this damage is intended to be covered by this language. For example, assume a producer is insured and a severe hail storm occurs in July. This damage may injure this year's crop as well as the buds that will produce next year's crop. However, this damage would be outside the current insurance period based on the current language. If the intent is to cover this damage for carryover producers, the language should be revised to something along the lines of the language in the Adjusted Gross Revenue handbook which states that insurance providers cover damage that occurred due to insurable causes during the previous crop year. The commenter feels that it will be difficult to assess such damage and that it should be covered under the policy. If this is not the intent, it should be stated very clearly that insurance providers will not cover damage that occurs the previous crop year if such damage occurs prior to the end of the previous year's end of insurance period.

Response: The Prune Crop Provisions do not provide coverage for damage to fruit if the damage occurs outside of the insurance period as provided in section 9(a). FCIC disagrees language should be added to section 8(c) to clarify that coverage is not provided for damage to fruit if the damage occurs outside of the insurance period since this information is already contained in section 9(a). FCIC cannot consider the recommended change to the Prune Crop Provisions to provide coverage for damage that occurs outside of the insurance period since this change was not proposed, the comment does not address a conflict or vulnerability, and the public has not been given an opportunity to provide comments. However, FCIC will consider this change the next time the Prune Crop Provisions are revised. No change has been made to the final rule.

Section 9—Causes of Loss

Comment: A commenter recommended that section 9(a)(2) insured cause of loss be clarified as ''Fire, due to natural causes, * * * '' (or ''Fire, if caused by lightning, * * *'',).

Response: No changes were proposed to this provision and the comment does not address a conflict or vulnerability in the provision. Therefore, FCIC cannot consider the recommended changes because the public was not given an opportunity to comment. No change has been made to the final rule. However, section 12 of the Basic Provisions already states all insured causes of loss must be due to a naturally occurring event. In addition, the Federal Crop Insurance Act is clear that only natural causes can be covered under the policy.

Section 10—Duties in the Event of Damage or Loss

Comment: A few commenters stated the language in the second sentence of section 10(b)(2) states in part that ''We will conduct an appraisal that will be used to determine your production to count * * *'' The commenters recommend that this language be revised as follows: ''We will conduct an appraisal that may be used to determine your production to count * * *''. Additional language in this section indicates that ''* * * These appraisals, and any acceptable records provided by you, will be used to determine your production to count * * *''. Insurance providers need to maintain the ability to use the actual records if they believe those records are more accurate than the appraisal as noted in this additional language. Therefore, the word ''will'' should be changed to ''may'' in order to allow insurance providers the flexibility to apply this language accordingly.

Response: No changes were proposed to this provision and the comment does not address a conflict or vulnerability in the provision. Therefore, FCIC cannot consider the recommended changes because the public was not given an opportunity to provide comments. No change has been made to the final rule. However, this provision is consistent with other Crop Provisions, such as apples, stonefruit and pears, that contain language regarding production that is sold by direct marketing.

Section 11—Settlement of Claim

Comment: A commenter questioned if it is correct that only prunes meeting the definition of standard prunes will be counted as production to count for claims and APH purposes, and although a producer may sell prunes of lesser quality, such production will not be counted as production to count as described above.

Response: FCIC disagrees that only prunes meeting the definition of standard prunes will be counted as production to count for claims and APH purposes. Only counting standard prunes as production to count regardless of the cause of loss would create a program vulnerability. FCIC proposed to remove the quality adjustment provision to alleviate the time and effort required to apply a quality adjustment factor which ultimately results in zero production to count for harvested substandard prunes damaged due to insured causes of loss. The proposed removal of the quality adjustment provision, which only adjusts the quantity of substandard prunes damaged by insurable causes of loss, was not intended to prevent substandard prunes damaged by uninsurable causes of loss or production sold as standard prunes from being considered as production to count. Therefore, section 11(c)(1) has been revised to clarify that for appraised unharvested production, only prunes meeting the definition of standard prunes will be considered as production to count unless the prunes are damaged due to an uninsurable cause of loss or the prunes or prune acreage meets any of the other conditions described in section 11(c)(1). Section 11(c)(2) has been revised to clarify that for harvested production, prunes meeting the definition of standard prunes, prunes harvested for fresh fruit, prunes sold as standard prunes and prunes damaged due to uninsured causes will be considered as production to count.

In addition to the changes described above, FCIC has made minor editorial changes.

List of Subjects in 7 CFR Part 457

Crop insurance, Prune, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 effective for the 2013 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 2. Amend § 457.133 as follows:

■ a. In the introductory text by removing ''2001'' and adding ''2013'' in its place;

■ b. By removing the undesignated paragraph immediately preceding section 1;

■ c. In section 1:

■ i. By removing the definitions of ''market price for standard prunes'' and ''substandard prunes''; and
■ ii. In the definition of ''standard prunes'' by removing the word ''grading'' and adding in its place the word ''grade'' in paragraph (b).
■ d. In section 3:
■ i. By revising paragraph (a);
■ ii. By revising paragraph (b) introductory text and (b)(4)(i);
■ iii. By redesignating paragraph (c) as paragraph (d);
■ iv. By designating the undesignated paragraph following paragraph (b) as paragraph (c); and
■ v. By revising newly designated paragraph (c).
■ e. In section 6:
■ i. By revising paragraph (c); and
■ ii. By removing paragraphs (d) and (e).
■ f. In section 8:
■ i. By revising paragraph (a)(1);
■ ii. By removing paragraph (c);
■ iii. By redesignating paragraph (d) as paragraph (c); and
■ iv. In newly designated paragraph (c) by adding a comma after the phrase ''cancellation and termination dates''.
■ g. In section 9(a)(5) by removing the word ''or'' after the semicolon at the end of the sentence;
■ h. In section 9(a)(6) by removing the period at the end of the sentence and adding a semicolon in its place;
■ i. By adding section 9(a)(7);
■ j. By adding section 9(a)(8);
■ k. By revising section 9(b);
■ l. In section 10:
■ i. By designating the introductory text as paragraph (b) and adding a new paragraph (a); and
■ ii. Redesignate paragraphs (a) through (d) in redesignated paragraph (b) as (1) through (4), respectively;
■ m. By revising section 11(b)(1) through (7) and the example;
■ n. By revising section 11(c) introductory text, (c)(1)(iii), and (c)(2); and
■ o. By removing section 11 (e).

The revisions and additions read as follows:

§ 457.133 Prune crop insurance provisions.

* * * * *

3. * * *

* * * * *

(a) You may select only one price election for all the prunes in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by type if applicable:

* * * * *

(4) * * *

(i) The age of the interplanted crop, and type, if applicable;

* * * * *

(c) We will reduce the yield used to establish your production guarantee, as necessary, based on our estimate of the effect of any such situation listed in section 3(b) that may occur. If you fail to notify us of any situation in section 3(b), we will reduce the yield used to establish your production guarantee at any time we become aware of the circumstance. If the situation in section 3(b) occurred:

(1) Before the beginning of the insurance period, the yield used to establish your production guarantee will be reduced for the current crop year regardless of whether the situation was due to an insured or uninsured cause of loss;

(2) After the beginning of the insurance period and you notify us by the production reporting date, the yield used to establish your production guarantee will be reduced for the current crop year only if the potential reduction in the yield used to establish your production guarantee is due to an uninsured cause of loss; or

(3) After the beginning of the insurance period and you fail to notify us by the production reporting date, an amount equal to the reduction in the yield will be added to the production to count calculated in section 11(c) due to uninsured causes when determining any indemnity. We may reduce the yield used to establish your production guarantee for the subsequent crop year to reflect any reduction in the productive capacity of the trees.

* * * * *

6. * * *

* * * * *

(c) That are grown on trees that:

(1) Are listed as insurable types in the Special Provisions;

(2) Are grown on rootstock that is adapted to the area;

(3) Are irrigated (except where otherwise provided in the Special Provisions);

(4) Are grown in an orchard that, if inspected, is considered acceptable by us; and

(5) Have reached at least the seventh growing season after being set out.

* * * * *

8. * * *

(a) * * *

(1) For the year of application, coverage begins on March 1. For each subsequent crop year the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

* * * * *

9. Causes of Loss.

(a) * * *

(7) Insects, but not damage due to insufficient or improper application of pest control measures; or

(8) Plant disease, but not damage due to insufficient or improper application of disease control measures.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to inability to market the prunes for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Duties in the Event of Damage or Loss.

(a) In accordance with the requirements of section 14 of the Basic Provisions, you must leave representative samples in accordance with our procedures.

* * * * *

11. * * *

* * * * *

(b) * * *

(1) Multiplying the insured acreage for each type, if applicable, by its respective production guarantee;

(2) Multiplying the result of 11(b)(1) by the respective price election for each type, if applicable;

(3) Totaling the results of section 11(b)(2);

(4) Multiplying the total production to count (see section 11(c)), of each type, if applicable, by its respective price election;

(5) Totaling the results of section 11(b)(4);

(6) Subtracting the result of section 11(b)(5) from the result of section 11(b)(3); and

(7) Multiplying the result of section 11(b)(6) by your share.

Example 1: You select 75 percent coverage level, 100 percent of the price election, and have a 100 percent share in 50.0 acres of type A prunes in the unit. The production guarantee is 2.5 tons per acre and your price election is $630.00 per ton. You harvest 10.0 tons. Your indemnity would be calculated as follows:

(1) 50.0 acres × 2.5 tons = 125.0-ton production guarantee;

(2) 125.0-ton guarantee × $630.00 price election = $78,750 value of production guarantee;

(4) 10.0 tons × $630.00 price election = $6,300 value of production to count;

(6) $78,750 − $6,300 = $72,450 loss; and

(7) $72,450 × 1.000 share = $72,450 indemnity payment.

Example 2: In addition to the information in the first example, you have an additional 50.0 acres of type B prunes with 100 percent share in the same unit. The production guarantee is 2.0 tons per acre and the price election is $550.00 per ton. You harvest 5.0 tons. Your total indemnity for both types A and B would be calculated as follows:

(1) 50.0 acres × 2.5 tons = 125.0-ton production guarantee for type A and 50.0 acres × 2.0 tons = 100.0-ton production guarantee for type B;

(2) 125.0-ton guarantee × $630.00 price election = $78,750 value of production guarantee for type A and 100.0-ton guarantee × $550.00 price election = $55,000 value production guarantee for type B;

(3) $78,750 + $55,000 = $133,750 total value of production guarantee;

(4) 10.0 tons × $630.00 price election = $6,300 value of production to count for type A and 5.0 tons × $550.00 price election = $2,750 value of production to count for type B;

(5) $6,300 + $2,750 = $9,050 total value of production to count;

(6) $133,750 − $9,050 = $124,700 loss; and

(7) $124,700 loss × 1.000 share = $124,700 indemnity payment.

(c) The total production to count (in tons) from all insurable acreage on the unit will include:

(1) * * *

* * * * *

(iii) Unharvested production that meets the definition of standard prunes; and

* * * * *

(2) All harvested production from the insurable acreage that:

(i) Meets the definition of standard prunes;

(ii) Is intended for use as fresh fruit;

(iii) Is sold as standard prunes; or

(iv) Is damaged due to uninsured causes.

* * * * *

Signed in Washington, DC, on September 18, 2012.

Michael F. Hand,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 2012–23571 Filed 9–25–12; 8:45 am]

BILLING CODE 3410–08–P

FARM CREDIT ADMINISTRATION

12 CFR Part 630

RIN 3052–AC77

Disclosure to Investors in System-Wide and Consolidated Bank Debt Obligations of the Farm Credit System; System Audit Committee

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, us, we, or our) amends our regulations related to the Federal Farm Credit Banks Funding Corporation (Funding Corporation) System Audit Committee (SAC) and the Farm Credit System (System) annual report to investors. The final rule removes the provision for a two-thirds majority vote of the Funding Corporation board of directors to deny a request for resources by the SAC and requires the SAC to use resources to preserve and promote the safety and soundness of the System. The rule also requires quarterly reporting by the SAC to the Funding Corporation board and annual reporting to investors on resources used.

DATES: This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Deborah Wilson, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4434, or Laura McFarland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this final rule are to:

- Allow the SAC unrestricted access to resources to engage legal counsel, consultants and outside advisors; and
- Clarify that the SAC must have the agreement of the Funding Corporation board of directors in order to appoint, compensate, and retain the external auditor of the combined System-wide reports.

II. Background

The Farm Credit Act of 1971, as amended (Act),[1] authorizes the FCA to issue regulations implementing the Act's provisions.[2] Our regulations are intended to ensure the safe and sound operations of System institutions and to govern the disclosure of financial information to shareholders of, and investors in, the System. Section 630.6(a) of our existing regulations requires the Funding Corporation to establish and maintain the SAC, including providing monetary and nonmonetary resources for SAC operations. Our existing regulation requires a two-thirds vote of the full Funding Corporation board to deny any SAC request for resources.

In a May 2010 petition, the SAC requested that we amend § 630.6(a) to allow the SAC the unfettered ability to engage outside advisors, consultants and legal counsel in the performance of its duties. In a February 14, 2012, proposed rulemaking, we proposed:

- Removing the requirement that the Funding Corporation Board deny a SAC request for resources by a two-thirds majority vote of the full board;
- The SAC use resources in a manner that would not adversely affect the safety and soundness of the System; and
- Disclosure of resources used by, and the composition of, the SAC.[3]

The 60-day comment period for the proposed rule closed on April 16, 2012.

III. Comments and Our Responses

We received comment letters on the proposed rule from each of the four Farm Credit banks, the Farm Credit Council (Council) on behalf of its membership, and a joint letter from the Funding Corporation and the SAC (joint letter). The Farm Credit banks and the Council expressed support for the comments made in the joint letter. We discuss the comments to our proposed rule and our responses below. Unless otherwise discussed in this preamble, those areas of the proposed rule not receiving comment are finalized as proposed.

A. System Audit Committee Authority [§ 630.6(a)]

All commenters supported removing the requirement that a two-thirds majority vote of the full Funding Corporation board of directors was needed to deny a SAC request for resources. Also, commenters supported the requirement that the SAC report at least quarterly to the Funding Corporation board on its use of resources.

Commenters expressed concern with the requirement that the SAC use Funding Corporation resources in a

[1] Public Law 92–181, 85 Stat. 583 (1971), 12 U.S.C. 2001 *et seq.*

[2] 12 U.S.C. 2252(a)(8), (9) and (10).

[3] 77 FR 8179 (Feb. 14, 2012).

manner that would not adversely affect the safety and soundness of the System. They stated that the safety and soundness provision was not operational and could be subject to different interpretations. One commenter provided an example in which the SAC may choose not to investigate or uncover potential financial wrongdoing because disclosing how it used the resources and the results from the use of those resources may impact the System's cost of funds in a manner that could adversely affect the safety and soundness of the System. The commenter noted that failure of the SAC to investigate or uncover a potential financial wrongdoing could also adversely affect the safety and soundness of the System. We respectfully disagree with comments arguing that the provision may not be operational when there may be a duty to disclose financial wrongdoing which might adversely affect the cost of funds for the System. Uncovering financial wrongdoing and any unavoidable impact would not be contrary to the rule. While the wrongdoing itself may affect safety and soundness, the corrective actions taken to respond to and resolve the wrongdoing would be a positive impact on the safety and soundness of the System and, therefore, not prohibited under the rule. It is the financial wrongdoing that could adversely affect the safety and soundness of the System, not the action taken by the SAC to uncover and correct it.

Commenters stated that requiring the SAC to use Funding Corporation resources in a manner that would not adversely affect the safety and soundness of the System provision would create a standard that is stricter than that applied under governance best practices and should not be required. Some commenters expressed that holding the SAC to a stricter standard in the use of resources may hinder the Funding Corporation's ability to attract and retain SAC members, which could potentially damage the safety and soundness of the System. As the safety and soundness regulator of System institutions, including the Funding Corporation and its SAC, we expect all institutions to use resources according to law and regulations and in a safe and sound manner. We believe using resources accordingly and in such a manner should always be considered a best practice. Further, since the SAC is not composed solely of members of the board of directors as are other System institution audit committees,[4] we want to be clear that the SAC is held to the same safety and soundness standard.

Commenters stated the SAC cannot guarantee that the use of resources would lead directly to results that ensure the safety and soundness of the System. One commenter noted that the requirement may discourage the SAC from engaging outside third parties to assist with investigations or prevent the SAC from seeking their advice. The rule does not require the SAC use of resources guarantee the System's safety and soundness. Instead, the rule requires that the SAC not use Funding Corporation resources in a manner that would adversely affect the safety and soundness of the System or be contrary to law and regulation. We refer again to the example in which the SAC would use resources to uncover financial wrongdoing. The actual act of financial wrongdoing may adversely affect the safety and soundness of the System. The use of resources by the SAC to uncover and correct the wrongdoing may not be considered to have caused the adverse effect, but may help preserve and promote the safety and soundness of the System.

The joint letter asserted that the SAC is already bound by its fiduciary duties to act prudently. The joint letter stated that the Business Judgment Rule allows SAC members to rely on the advice of experts, but the safety and soundness provision would create a judicial and regulatory hindsight that the Business Judgment Rule was meant to deter. The commenter stated that this could potentially lead to a liability for SAC members.

The Business Judgment Rule provides a measure of liability protection to directors, officers, employees, and agents of a corporation when, in the course of decision-making, they place a reasonable reliance on expert advice. When applying the Business Judgment Rule, the courts consider whether the decision-making process involved careful consideration of reasonably available and relevant facts and whether the decision-maker honestly and reasonably believed that the decision was in the best interest of the institution. The safety and soundness of the System is in the best interest of the SAC and the Funding Corporation. We see nothing in the requirement to use Funding Corporation resources in a safe and sound manner that is contrary to the SAC's fiduciary duties or diminishes the protection offered the SAC under the ''Business Judgment Rule.'' As such, the argument that the provision hinders or otherwise contradicts the principals behind the Business Judgment Rule is not meritorious.

The SAC's use of Funding Corporation resources must have the intended purpose of preserving or promoting the safety and soundness of the System. We do not believe that it is more difficult for the SAC to carry out its responsibilities in a manner that does not adversely affect the System's safety and soundness than it is for other System institution audit committees. However, in consideration of the comments, we are modifying the language to clarify the requirement. The provision as finalized places a positive duty on the SAC to use resources in a lawful manner and to preserve and promote the safety and soundness of the System. This provision does not prevent the Funding Corporation board from developing its own policies and procedures to address the request for and use of resources by the SAC.

B. External Auditors [§ 630.6(a)(4)(ii)(A)]

All commenters agreed with the proposed clarification that the SAC determines the appointment, compensation, and retention of the external auditor only with the agreement of the Funding Corporation board. However, commenters asked that the rule text make clear that this authority relates to the performance of the audit of the System-wide combined financial statements and not the audit fees related to the performance of the audit of the financial statements of individuals banks and associations. We do not believe any changes are needed to the language in § 630.6(a)(4)(ii). The rule clearly states that the appointment, compensation and retention of the external auditors relates solely to issuing the combined System-wide audit report and not the audit report of individual banks and associations. Our rule at § 620.30(d)(2) gives that authority to the audit committees of individual banks and associations. In addition, in a 2006 rulemaking, we made changes to our rules to limit the authority of the Funding Corporation, and by extension the SAC, to intervene in the activities of any bank or association's external auditor.[5]

The joint letter requested that the rule not require Funding Corporation board concurrence for ordinary or recurring external auditor fees. We do not believe

[4] The SAC is only required to have one-third of its membership from the Funding Corporation board of directors. Audit committee members of Farm Credit banks and associations are composed solely of members of the respective institution's board of directors.

[5] *See* 71 FR 76111, Dec. 20, 2006.

this change is necessary because, as previously stated, the Funding Corporation board may develop its own procedures to address the activities of the SAC as long as those procedures do not conflict with law or regulation.

We finalize the provisions of § 630.6(a)(4)(ii)(A) as proposed.

C. Disclosure of System Audit Committee Expenditures [§ 630.20(n)]

We proposed in § 630.20(n) that Funding Corporation resources used by the SAC be disclosed by category and amount in the annual System-wide report to investors if the total of each expense category for the reporting year was $5,000 or more. The proposed categories included, at a minimum, administrative expenses, contracted legal services, contracted consultants and advisors, and other contracted services performed on behalf of the SAC. We proposed excluding from this section disclosure of the fees paid to the external auditor for issuing System-wide audit reports. That disclosure is required by existing § 630.20(k)(2).

Commenters expressed concern with the additional disclosures proposed in § 630.20(n). Other commenters contended that the disclosure placed a higher standard on the SAC than what is required of entities registered with the Securities Exchange Commission (SEC) or as required by the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley).[6] The joint letter stated the disclosures were unnecessary and explained that as a best practice the SAC follows most SEC disclosure requirements, using a materiality assessment. Commenters suggested disclosures not be required before any investigation or similar inquiry by the SAC is completed. One commenter stated that the disclosures could reveal confidential information and might affect the ability of the SAC to engage outside consultants. The joint letter asserted attorney-client communications would also be compromised.

We believe disclosure of the use of Funding Corporation resources by the SAC provides transparency to System stockholders and investors and strengthens board and management accountability. Further, we believe removing the provision that a two-thirds majority vote of the full Funding Corporation board be required to deny an SAC request for resources necessitates an added level of accountability by the SAC.

We do not believe that disclosing the dollar amount of resources used to hire legal counsel, consultants and other categories of services would compromise confidentiality or attorney-client relations. The provision does not require the disclosure in the annual System-wide report to investors of the name of or service performed by legal counsel, advisors or outside consultants engaged by the SAC. Instead, the provision requires reporting the cost of and benefits to the System from the use of those resources. However, since disclosure of benefits derived from using those resources appears to be the source of commenters' concerns, and considering the safety and soundness constraints placed on the use of resources, we are finalizing the rule with the cost disclosure only and without the requirement to report the benefits of resources used. We expect the SAC to disclose information on the benefit from the use of resources to the Funding Corporation board.

One commenter requested that we limit the definition of external resources to ''experts'' engaged by the SAC and not include resources used by the SAC for off-site meeting facilities. The commenter stated that the use of these resources should instead be periodically reported to the Funding Corporation board. We respectfully disagree with the suggestion of limiting the disclosure on the SAC's use of resources to only ''experts.'' The Funding Corporation is required to provide both monetary and nonmonetary resources to the SAC and we proposed disclosures of those resources to ensure that investors are provided transparent and complete disclosure on the use of resources by the SAC. Further, we identified categories of resources based on use, including a disclosure category of ''administrative expenses,'' which may include either internal or external resources or both. Thus, if the SAC uses Funding Corporation resources for meeting sites, those expenses would be reported in the ''administrative expense'' category.

One commenter asserted that the $5,000 de minimis reporting threshold was too low and should be increased. We believe this threshold is reasonable given we are removing the requirement for a two-thirds majority vote of the full Funding Corporation board to deny an SAC request for resources. In addition, the threshold resembles other disclosure thresholds contained elsewhere in our rules. We are not increasing the reporting threshold in this final rule.

One commenter requested that we clarify the relationship of the proposed § 630.20(n) exemption from reporting external audit fees for issuance of System-wide audit reports with the existing requirement of § 630.20(k)(2), which requires the disclosure of fees. Existing § 630.20(k)(2) requires disclosure of fees paid to the external auditor during the reporting period for audit services, tax services, and non-audit services. Because § 630.20(k)(2) currently requires disclosure of these fees, we did not also propose requiring a similar disclosure requirement in § 630.20(n). We are revising the language in § 630.20(n) for clarity.

No comments were received on the proposed requirement to disclose in the annual System-wide report to investors the name, experience, and compensation of SAC members. Also, we received no comments on the categories of resources used by the SAC that were identified in the proposed rule and required to be disclosed. We finalize these provisions as proposed.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 630

Accounting, Agriculture, Banks, banking, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 630 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 630—DISCLOSURE TO INVESTORS IN SYSTEM-WIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

■ 1. The authority citation for part 630 is revised to read as follows:

Authority: Secs. 4.2, 4.9, 5.9, 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2153, 2160, 2243, 2252, 2254); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656; sec. 514 of Pub. L. 102–552, 106 Stat. 4102.

[6] Public Law 107–204, July 30, 2002. Congress enacted Sarbanes-Oxley after revelation of accounting and financial management scandals involving public companies. It was enacted to strengthen financial disclosure, reporting, and accountability requirements for publicly traded companies and other entities registered with the SEC. Farm Credit banks and associations are not subject to the governance requirements of Sarbanes-Oxley.

■ 2. Section 630.6 is amended by revising paragraphs (a)(3) and (a)(4)(ii)(A) to read as follows:

§ 630.6 Funding Corporation committees.

(a) * * *

(3) *Resources.* The Funding Corporation must provide the SAC monetary and nonmonetary resources the SAC determines necessary to enable it to perform the duties listed in paragraph (a)(4) of this section. The Funding Corporation must permit the SAC to contract, for reasons directly related to the duties listed in paragraph (a)(4) of this section, the services of external auditors, independent legal counsel, and outside advisors. The SAC must only use the resources of the Funding Corporation in a manner that complies with laws and regulations and for the purpose of preserving and promoting the safety and soundness of the System. The SAC must provide the Funding Corporation board of directors a quarterly accounting of expenditures made pursuant to this section.

(4) * * *

(ii) * * *

(A) Determine, with the agreement of the Funding Corporation board of directors, the appointment, compensation, and retention of the external auditors issuing System-wide audit reports;

* * * * *

■ 3. Section 630.20 is amended by revising paragraph (n) to read as follows:

§ 630.20 Contents of the annual report to investors.

* * * * *

(n) *System Audit Committee.* The Funding Corporation must include in the System-wide Report to Investors a description of the System Audit Committee and its activities during the reporting period. At a minimum, the description must:

(1) List the names of the System Audit Committee members, including each member's term of office and principal occupation during the past 5 years. For each member, state the total cash and noncash compensation paid for services on the System Audit Committee during the reporting period.

(2) Disclose by category the monetary and nonmonetary resources used by the System Audit Committee during the reporting period. Discuss only those categories where the resources used within a category equaled or exceeded a total aggregate value of $5,000 during the reporting period. Fees paid for the audit of the System-wide financial statements, which are disclosed under paragraph (k)(2) of this section, are not included in any category under this paragraph. At a minimum, there must be separate categories for:

(i) Administrative expenses,

(ii) Contracted legal services,

(iii) Contracted consultants and advisors, and

(iv) Other contracted services, identifying the services.

* * * * *

Dated: September 20, 2012.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2012–23723 Filed 9–25–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 120416007–2464–01]

RIN 0648–BB67

Fisheries of the Exclusive Economic Zone Off Alaska; Monitoring and Enforcement Requirements in the Bering Sea and Aleutian Islands Freezer Longline Fleet

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations that modify equipment and operational requirements for freezer longliners (catcher/processors) named on License Limitation Program (LLP) licenses endorsed to catch and process Pacific cod at sea with hook-and-line gear in the Bering Sea and Aleutian Islands Management Area (BSAI). These regulations require vessel owners to select between two monitoring options: carry two observers so that all catch can be sampled, or carry one observer and use a motion-compensated scale to weigh Pacific cod before it is processed. The selected monitoring option is required to be used when the vessel is operating in either the BSAI or Gulf of Alaska groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is fishing for groundfish under the Western Alaska Community Development Quota (CDQ) Program. A vessel owner who notifies NMFS that the vessel will not be used to conduct directed fishing for Pacific cod in the BSAI or to conduct groundfish CDQ fishing at any time during a particular year will not be required to select one of the monitoring options and will continue to follow observer coverage and catch reporting requirements that apply to catcher/processors not subject to this action. These regulatory amendments address the need for enhanced catch accounting, monitoring, and enforcement created by the formation of a voluntary cooperative by the BSAI longline catcher/processor subsector in 2010, and are necessary to improve the precision of the accounting for allocated quota species. This action is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, the Fishery Management Plan for Groundfish of the Gulf of Alaska, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

DATES: Effective October 26, 2012.

ADDRESSES: Electronic copies of the proposed rule, the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and by email to *OIRA_Submission@omb.eop.gov,* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jennifer Watson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the exclusive economic zone off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI). The FMPs were prepared by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce under authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act). The FMPs are implemented by regulations at 50 CFR parts 679 and 680.

Background

This action modifies the equipment and operational requirements for catcher/processor vessels (C/Ps) named on License Limitation Program (LLP) licenses with a Pacific cod catcher/processor hook-and-line endorsement for the Bering Sea, Aleutian Islands, or both Bering Sea and Aleutian Islands. These vessels are commonly known as ''freezer longliners.'' They also are defined as the ''longline catcher processor subsector'' in the 2005 Consolidated Appropriations Act (Pub. L. 108–447). In 2011, 33 vessels actively fished under the 37 LLP licenses that met the criteria for the longline C/P subsector. A description of LLP license requirements, management of the longline C/P subsector, and the development of monitoring and enforcement regulations applicable to the longline C/P subsector is described in more detail in the preamble to the proposed rule (77 FR 35925, June 15, 2012) and is not repeated here.

NMFS requires new monitoring and enforcement provisions applicable to vessels participating in the BSAI longline C/P subsector as a result of several pieces of legislation passed by Congress and recent changes to fishery management regulations, including (1) legislation that created a defined class of participants in the BSAI longline C/P subsector—the 2005 Consolidated Appropriations Act (Pub. L. 108–447), (2) regulatory amendments allocating a specific quantity of Pacific cod resources in the BSAI to the defined class of longline C/P subsector participants—detailed in the final rule implementing Amendment 85 to the BSAI FMP (74 FR 56728, November 3, 2009), and (3) legislation that allows BSAI longline C/P subsector participants to receive exclusive catch privileges—the Longline Catcher Processor Subsector Single Fishery Cooperative Act of 2010 (Pub. L. 111–335). In combination, these changes created the opportunity for the longline C/P subsector to form a voluntary fishing cooperative.

Under the voluntary cooperative, members in the longline C/P subsector allocate a proportion of the available Pacific cod resources among their members based on private contractual arrangements. The voluntary cooperative operates as a *de facto* catch share program because the cooperative includes all members of the subsector and together they control harvest of the sector's allocation of Pacific cod in the BSAI. Vessels fishing under a voluntary cooperative require a higher level of monitoring to ensure accurate reporting of the catch allocated to the subsector.

Catch share programs create new demands for enhanced catch accounting, monitoring, and enforcement. They increase incentives for participants to misreport catch through unauthorized discards or inaccurate catch reports. If catch can be successfully misreported or underreported, the fishing season continues longer than it should, and the vessel owners and operators are able to catch more Pacific cod than are allocated to the subsector. The fact that the vessel owners and operators are fishing under a cooperative contract to maximize the harvest and value of the Pacific cod allocation for a given halibut PSC limit provides additional opportunities for them to communicate and cooperate to underreport catch.

The voluntary cooperative and the CDQ Program present NMFS with similar monitoring and enforcement challenges. Therefore, this action applies the same requirements to longline C/Ps operating in both the CDQ and non-CDQ fisheries. Maintaining the same monitoring measures ensures consistent methods of catch accounting, avoids confusion for observers, and reduces the risk of data processing or catch accounting errors that may occur if monitoring provisions change onboard a vessel while fishing. Additional detail on the need for enhanced monitoring requirements for catch share programs and management of the CDQ Program is provided in the preamble to the proposed rule (77 FR 35925, June 15, 2012) and not repeated here.

Actions Implemented by Rule

The proposed rule for this action was published in the **Federal Register** on June 15, 2012 (77 FR 35925). The 30-day comment period on the proposed rule ended July 16, 2012. The regulatory provisions implemented by this action are summarized here. Additional information and a description of this action are provided in detail in the preamble to the proposed rule and are not repeated here.

This action affects vessels in the longline C/P subsector when those vessels (1) operate in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or (2) while the vessel is participating in the CDQ fisheries (''groundfish CDQ fishing''). Members of the subsector who do not intend to fish for Pacific cod in the BSAI or to conduct groundfish CDQ fishing during the upcoming calendar year may notify NMFS (''opt out'') and will not be subject to the enhanced monitoring requirements in that calendar year.

Members of the subsector who intend to fish for Pacific cod in the BSAI or to conduct groundfish CDQ fishing in the upcoming calendar year will be required to select one of two monitoring options: carry two observers so that all catch can be sampled, or carry one observer and use a motion-compensated scale to weigh Pacific cod before it is processed. NMFS has examined both options and determined that either option will improve catch accounting on the freezer longliners and provide the data needed to properly manage the Pacific cod and groundfish CDQ fisheries. Vessel owners will be required to select an option prior to November 1 for the upcoming calendar year. Once the selection is made, it will apply for the entire year and the vessel owner will not be able to change it during the year for which it was made.

Under the increased observer coverage monitoring option, the vessel owner and operator will be required to carry two observers and provide an observer sampling station meeting location and space requirements. The vessel operator will be required to use an electronic logbook to report catch at all times during that year. One of the two observers must have a lead level 2 certification. The observers must have the opportunity to sample all sets. A lead level 2 observer must meet minimum time-at-sea requirements. The level 2 requirement ensures that observers have experience at sea; the ''lead'' requirement ensures that they have had experience with longline or pot gear and that, having taken at least two cruises, they have experience with various fixed-gear operations. Because the data collected by observers is directly used to debit quota accounts, the observer estimates are carefully reviewed and scrutinized by catch share participants. NMFS has found that observers with prior experience with a specific gear type are more likely to collect usable data for quota management.

Under the scales monitoring option, the vessel owner and operator will be required to use a NMFS-approved scale to weigh all Pacific cod, provide and maintain a NMFS-approved electronic monitoring system to monitor sorting and weighing of Pacific cod, carry one lead level 2 observer, and provide an observer sampling station meeting location and space requirements. Each set must be weighed and recorded separately. NMFS will use the weight of all catch that passes over the scale to account for Pacific cod catch. The vessel operator will be required to use an

electronic logbook to report catch at all times during that year.

This action also reduces the experience requirements for lead level 2 observers to address concerns raised by the observer providers about a potential shortage of observers as a result of this action. Reducing the experience requirements will increase the pool of qualified lead level 2 observers. The number of sampled sets required for lead level 2 qualification is reduced from 60 sampled sets to 30 sampled sets.

Finally, this action removes the allowance for an ''alternative fishing plan'' under the CDQ Program. Because this action will standardize the monitoring options for longline C/Ps in both the CDQ and non-CDQ fisheries, the alternative fishing plan regulations are no longer necessary.

Comments and Responses

NMFS received 3 letters of comment from fishing organizations and 2 letters of comment from the general public addressing 13 distinct topics related to the proposed rule. A summary of the relevant comments and NMFS' responses, follows. No changes were made to the proposed rule as a result of these comments.

Comment 1: The commenter supports the proposed requirements for two observers on longline catcher/processors, but does not support the proposed requirements for the use of a flow scale and a lead level 2 observer because of the difficult work schedule observers must follow when only one observer is aboard and the cost of installing the flow scale and camera equipment onboard.

Response: NMFS acknowledges this comment. The requirements provide vessel owners two options to meet NMFS' monitoring objectives. A vessel owner may select the scales option or the increased observer coverage option depending on which option best meets the vessel's annual fishing plan and is the most cost effective for their vessel. Either monitoring option will result in quality data and enable NMFS to estimate Pacific cod catch in the longline C/P sector. The costs associated with both monitoring options are described in section 1.3 of the EA/RIR (see **ADDRESSES**). NMFS agrees that the scale option will increase the complexity of the observer's job and, as described in section 1.3.4 of the EA/RIR (see **ADDRESSES**), this is part of the rationale for requiring that the single observer under this option be lead level 2 certified.

Comment 2: The increase in the total number of lead level 2 observers needed to cover the BSAI freezer longline fleet is unsustainable and, in the long term, will lead to a shortage of qualified observers. Further, all freezer longline vessels will choose the scale option in the next two years. When this occurs, the training opportunity for observers to gain lead level 2 experience will no longer be available. If adequate observers are not available in a timely manner the vessel will have to stop fishing and wait for an observer to become available, which will have negative economic consequences.

Response: NMFS disagrees. NMFS acknowledges in section 1.3 of the EA/RIR (see **ADDRESSES**) that obtaining lead level 2 observers may be more difficult for fishing vessels than in the past and the demand for fixed gear lead level 2 observers will be much greater than in the past. NMFS notes that there are uncertainties associated with the new observer employment market conditions that we anticipate will accompany the introduction of the restructured observer program (77 FR 23326, April 18, 2012). The proposed action for the restructured observer program would add a funding and deployment system for observer coverage to the existing North Pacific Groundfish Observer Program (Observer Program) and amend existing observer coverage requirements for vessels and processing plants. The new funding and deployment system would allow NMFS to determine when and where to deploy observers according to management and conservation needs. We anticipate the restructured observer program will be implemented in 2013. NMFS also notes that there are additional uncertainties with the freezer longline sector's observer coverage needs as vessel operations evolve under the cooperative's catch share program.

Section 1.3.4 of the EA/RIR (see **ADDRESSES**) describes other ways observers can gain lead level 2 experience. While opportunities for obtaining lead level 2 qualifications within the freezer longline fleet will be limited, observers may gain experience aboard the fixed gear catcher vessels, vessels in the affected fleet that choose to ''opt out'' of fishing under the program, freezer longliners that fish only in the GOA, pot catcher vessels, and pot catcher/processors. However, the EA/RIR (see **ADDRESSES**) highlights that the restructured observer program will provide the most new opportunities for observers to acquire lead level 2 certification. In addition, through this action NMFS reduced the number of sampled sets required for lead level 2 certification by half. Both of these factors increase the likelihood that there will be sufficient lead level 2 observers in the long term. The analysis suggests that it is likely that the number of qualified lead level 2 observers will exceed the number required in any given year. The analysis highlights mobilizing fixed gear lead level 2 observers is an essential component to ensuring vessels obtain the observer coverage required without stranding vessels at the dock.

Methods exist to obtain, train, and retain the needed lead level 2 observers as explained in section 1.3.4 of the EA/RIR (see **ADDRESSES**). These methods include paying observers higher wages and using the voluntary cooperative's structure to compensate vessels that choose to carry an additional observer to gain the experience required for lead level 2 certification. The cooperative may be able to arrange for its members to compensate some vessels to carry an observer in addition to the lead level 2 observer, and that observer could obtain the sampling experience needed to qualify for a lead level 2 position. The freezer longline fleet may also use the cooperative arrangements to adjust their fishing operations to ensure that a lead level 2 observer is available to the fleet and vessels are not stranded at the dock without observer coverage.

The observer employment market will play a crucial role in ensuring that enough lead level 2 observers are created and mobilized to meet the quantity demanded. Based on the analysis prepared for this action, NMFS anticipates that there will be enough lead level 2 observers to meet the requirements of this monitoring program.

Comment 3: The assumptions in the analysis about the numbers of deployments, days, and sets needed to qualify as a lead level 2 observer for nontrawl gear and the number of days that a lead level 2 observer are needed are inaccurate. NMFS has not accurately estimated the sets per day, and has failed to take account of the impact of total allowable catch (TAC) fluctuations on the need for observers.

Response: NMFS agrees in part. The freezer longline fishery's exact future observer needs are uncertain. The EA/RIR (see **ADDRESSES**) uses the best available information to evaluate the potential number of lead level 2 observers that may be available. NMFS has reviewed its sets per day estimates. After this review, NMFS found that it had based its estimates on longline sets rather than longline and pot sets and that it had not adequately distinguished between vessel days when an observer was aboard and vessel days at sea on which gear was retrieved. The EA/RIR

(see **ADDRESSES**) has been revised to use the broader fixed gear (longline and pot) estimates and the more conservative parameter of vessel days when an observer was aboard. This led to a change in the number of catcher vessel sets per fishing day from 2.63 to 1.87. The new value is known to be a conservative estimate, but NMFS believes it is an improvement from the original value.

NMFS agrees that the freezer longline fleet's observer usage may change from year to year as the TAC changes, or from vessel to vessel depending on the distribution of allocations within the voluntary cooperative. However, in its analysis of the anticipated future demand for observers, NMFS made projections assuming a fleet of the current size fishing for an entire year. This assumption is conservative, because some vessels do not fish the entire year to accommodate changes in crews, maintenance, and product offloads.

The modifications to revise the number of sets per day and the total number of days fished did not change the result of NMFS's analysis of the availability of lead level 2 observers. Therefore, no change in the regulations was made based on this comment.

Comment 4: The analysis did not consider whether the fixed gear lead level 2 observers were also trawl lead level 2 certified. If observers are lead level 2 qualified for both gear types, then they may be deployed into the trawl fishery where they are also required and unavailable to observe aboard fixed gear vessels. Therefore, the analysis may have overestimated the number of lead level 2 observers that will be available to the freezer longliners.

Response: NMFS acknowledges this comment. Section 1.3.4 of the EA/RIR (see **ADDRESSES**) describes that, while there were about 208 lead level 2 observers under current qualification requirements, only 39 were needed in 2010–2011. The analysis found that despite the large difference between the number of persons with the qualification and the number of persons used, the industry had difficulty finding enough lead level 2 observers. This difficulty in finding enough lead level 2 observers could be due to many factors, including observers with both trawl and fixed gear lead level 2 certification. While the analysis did not originally discuss the reasons for the difficulties in obtaining lead level 2 observers, it has been modified to include this discussion, including the difficulties that could be associated with finding enough lead level 2 observers because some observers may have both trawl and fish gear lead level 2 certification. Although some vessel operators had problems obtaining lead level 2 observers, NMFS does not have information that suggests this difficulty prevented vessel operators from fishing. As described in the response to comment 3, NMFS cannot guarantee that lead level 2 observers will always be available. Rather, NMFS analyzed available information and assumptions to estimate potential observer availability.

Comment 5: The analysis suggests that the restructured observer program, which will start in 2013, will be a training ground for lead level 2 observers. This is an assumption about a future program that has not yet been implemented and could be wrong. It is possible that the restructured observer program will yield fewer lead level 2 observers at a slower pace than the current observer program. The lead level 2 requirement in this rule should be dropped until the restructured observer program is implemented and has fully functioned for several years.

Response: NMFS agrees that there are uncertainties about the restructured observer program's effect on the availability of lead level 2 observers to the freezer longline fleet, as discussed in section 1.3.4 of the EA/RIR (see **ADDRESSES**). However, NMFS disagrees that these uncertainties should delay implementation of this action. The EA/RIR (see **ADDRESSES**) acknowledges that the number of observers that will gain experience as a result of the restructured observer program is uncertain; a wide range of observer availability scenarios has been examined in the analysis. NMFS examined different observer coverage levels in the restructured observer program and the resulting observer recruitment levels, as well as different attrition rates, at these different observer recruitment levels.

NMFS cannot delay the implementation of the lead level 2 requirement without delaying all the monitoring requirements in this program. The lead level 2 requirement is an essential component to the suite of monitoring tools created to manage the voluntary cooperative. Without this component the monitoring program will not function as intended. NMFS must implement these monitoring measures as soon as practicable because this fleet has already formed a voluntary cooperative and to achieve the objectives identified in the purpose and need statement.

NMFS will continue to monitor the number of observers that become lead level 2 qualified in the fixed gear fleet in the partial coverage category of the restructured observer program. NMFS could reconsider the monitoring requirements for the freezer longline fleet if there is a future shortage of lead level 2 observers. Any modification to the monitoring provisions in this rule would require a new analysis and rule making. The current best information available to NMFS does not support changes to the proposed rule.

Comment 6: The industry can increase the wages it pays for lead level 2 observers, but this will not lead to sufficient increases in the numbers of observers undertaking this work. Observers are motivated by important non-wage considerations. Even if freezer longliners and observer providers invest the resources to increase the number of lead level 2 observers, there is no certainty that the observer would remain available to the freezer longline fleet.

Response: NMFS does not have statistical information about the responsiveness of observer supply to different types of compensation packages. NMFS recognizes at Section 1.3.4 of the EA/RIR (see **ADDRESSES**) that many observers do not recognize observing as a career, that for almost all it is a seasonal job, and that observers are motivated by many things besides their pay.

However, NMFS believes that, in general, wages are an important motivator for work effort. Increased wages are likely to motivate existing lead level 2 observers to work longer seasons, encourage existing observers within the Alaska Region to become fixed gear lead level 2 observers, and to draw qualified biologists, including observers from other regions, into the pool of North Pacific fixed gear lead level 2 observers. Increased wages for observer providers will also be necessary to encourage providers to incur the costs required in nurturing new lead level 2 observers. NMFS acknowledges that paying higher wages to lead level 2 observers will reduce the economic benefits freezer longline operators obtain from their cooperative fishing arrangements.

As discussed in section 1.3.4 of the EA/RIR (see **ADDRESSES**), an increase in wages paid for fixed gear lead level 2 observers should increase the number of fixed gear lead level 2 observers and decrease the demand for them as well. Freezer longliner owners could change fishing operations to increase daily production to reduce the number of days each vessel fishes each year and thereby reduce the number of days an observer is required. Vessel owners may also take steps to provide non-monetary

benefits to the observers, such as improved living and working conditions to increase an observer's desire to return or to work longer aboard these freezer longliners. NMFS again acknowledges that steps like these would be a cost to freezer longliner owners and would reduce the benefits they obtain from cooperative fishing arrangements.

Comment 7: Lead level 2 observers are not needed in this program, because NMFS can collect quality data on these vessels with the current level of observer coverage. Current training already provides the observer with all of the necessary skills to work on a freezer longliner with scales and accurately provide catch and bycatch information to NMFS on a daily basis.

Response: NMFS disagrees. As stated in section 1.3.4 of the EA/RIR (see **ADDRESSES**), lead level 2 observers are required in this program under both the scale option and the increased observer coverage options to ensure that NMFS has quality data available on a haul-by-haul basis. The lead level 2 qualification is required for several reasons:

• Catch share programs create new incentives for operators to circumvent management measures. These incentives can be addressed in part by deploying experienced observers with specialized experience with the gear being deployed. In recent years, observer reports of harassment and intimidation in the freezer longline sector have increased. NMFS believes that, at least partly as a response to the new cooperative arrangements, vessel owners and operators are becoming more interested in haul-by-haul observer data in the freezer longline sector. As a result, some vessel operators are pressuring observers to change sample numbers, sample more, sample less, or sample differently. Experienced observers are more likely to identify vessel operator and crew actions that lead to sampling of unrepresentative sets, be more confident in their sampling decisions, and withstand pressure, particularly when only one observer may be on board.

• Performances issues with new observers can impact NMFS' monitoring of scale performance; of halibut prohibited species catch (PSC) and viability; and of all discard estimates, including Pacific cod. Experienced observers are familiar with different vessel layouts and operations. They can adapt quickly to vessel-specific conditions when assigned to a new freezer longliner. New observers or observers with little experience on fixed gear vessels need extra time to develop the best sampling techniques for that specific vessel. Lack of experience results in unsampled sets or lower data quality. Observers with experience aboard a fixed gear vessel should be able to quickly familiarize themselves with a new vessel and establish an unbiased sampling protocol.

• The scales option requires that only Pacific cod be weighed on the flow scale. Flow scales will be new to freezer longliners and NMFS believes that the sole observer must be a lead level 2 in order to detect and minimize problems that could occur. An observer with this level of experience should have the skills necessary to solve sampling and data collection problems in this new monitoring program. An observer unfamiliar with fixed gear operations will have difficulty determining if the scale is being used correctly. An experienced observer can address scale performance issues with the responsible vessel representatives prior to disembarking the vessel.

Comment 8: The only way to maintain a sustainable supply of lead level 2 observers for the freezer longline fleet in the future is for NMFS to either eliminate the single lead level 2 requirement for most boats, or mandate a lead level 2 observer and require a second observer whose only reason for being on board would be to gain experience toward lead level 2 certification.

Response: NMFS disagrees. As discussed in the response to comment 2, our analysis indicates that a sustainable supply of lead level 2 observers should be available in the short, as well as the long, term. NMFS does not believe that mandating a second observer for training purposes is necessary. To the extent the fleet believes there may be a shortage of trained lead level 2 observers, the cooperative structure of the fleet enables participants to voluntarily work with observer providers to provide training opportunities on board participating vessels. Some of the vessels could also choose to fish under the increased observer coverage option and increase the training opportunities for new observers.

Comment 9: Compared to other fleets that require lead level 2 observers, the Pacific cod freezer longline fleet has relatively low catch rates and less species diversity. NMFS should not rely on the experience in these other fleets as a demonstration for a need for lead level 2 observers for the smaller less productive freezer longliners.

Response: NMFS disagrees. As described in the EA/RIR (see **ADDRESSES**) and the response to comment 7, the lead level 2 observer requirement addresses fleet incentives to circumvent management measures, the increased reliance by NMFS and industry for haul-by-haul catch composition and discard information, and the need to monitor compliance with the scale requirements.

Comment 10: The freezer longliner fishery is similar to other fixed gear quota share fisheries, such as the halibut and sablefish individual fishing quota and the Bering Sea crab catcher/processor fleets. No lead level 2 observer requirement exists for these similar fleets.

Response: NMFS disagrees. NMFS did not use the measures implemented in other programs as a rationale for determining the measures necessary for this program. NMFS examined and developed specific monitoring requirements necessary for accurate catch monitoring in the freezer longline fleet based on the specific fishery characteristics. As different programs have been developed, the nature of those programs, their goals, and the history and nature of the fishery prior to rationalization has differed and therefore, NMFS has developed different monitoring requirements for each program. The rationale for a lead level 2 observer is discussed in comment 7 and section 1.3.4 of the EA/RIR (see **ADDRESSES**).

Comment 11: The proposed rule and the analysis discount repeated input from industry leaders and the years of experience and knowledge of the entire pool of observer providers. Rather than accept input from these entities, NMFS is choosing to push forward with the requirement for lead level 2 observers based on the position that this is necessary in the case of the freezer longliners because it was found to be necessary in previous rationalized fisheries.

Response: NMFS disagrees. NMFS has considered input from observer providers and freezer longline operators in preparing this final rule. NMFS staff presented the proposed requirements at a fleet meeting in May 2011 and responded to questions about the lead level 2 requirement at that time. NMFS received public testimony regarding the lead level 2 requirements during the October 2011 North Pacific Fisheries Management Council meeting and responded by explaining that the lead level 2 requirement ensures a quality monitoring program for this fishery. Following the October 2011 letter from the observer providers, NMFS contacted several observer providers to further understand their concerns. The EA/RIR (see **ADDRESSES**) was revised to add a new section on the lead level 2 requirement analyzing issues raised by

providers. The proposed rule for this action (77 FR 35972, June 15, 2012), proposed reducing the number of sampled sets currently required to achieve lead level 2 status. This proposed change directly responded to public input. Finally, because of the public interest in the lead level 2 requirement, NMFS posted the analysis to NMFS Alaska region Web site earlier than required.

As noted in the responses to comments 7 and 10, NMFS the decision to require a lead level 2 observer is not related to requirements in other rationalized fisheries. NMFS acknowledges that the experience gained from these other fisheries has demonstrated the need for lead level 2 observers to address incentives to misreport catch. NMFS determined that requiring observers that have the most experience and knowledge of fishing operations aboard fixed gear vessels was essential to ensure this new and unique program functions as anticipated.

Comment 12: We agree that the scale, 100 percent observer coverage, and camera requirements under the scale option will provide more precise estimates and strengthen management and enforcement under this program.

Response: NMFS agrees that the addition of flow scales, observer sampling stations, video monitoring to ensure all Pacific cod are sorted and weighed correctly, and the requirement for every vessel in this fleet to be observed will serve to improve the catch and fishing effort data in the freezer longline fleet.

Comment 13: The idea that freezer longline vessels could carry an observer in addition to the lead level 2 observer is flawed because Federal law mandates that vessel owners and operators cannot request particular individuals to work on their vessels.

Response: NMFS disagrees. Vessel owners and operators may request from the observer providers additional observers aboard their vessels. The regulations do prohibit vessels from requesting a preference for a specific observer, but there is no prohibition against requesting an additional observer in much the same way vessels currently request observers. In other fleets, vessel owners or operators have voluntarily requested an additional observer to improve data quality and observer working conditions. Similarly, freezer longline vessels have voluntarily taken extra observer coverage to monitor halibut PSC in the GOA fisheries.

Changes From the Proposed Rule

No changes to the regulations were made based on public comment. However, NMFS has identified two minor issues that require revisions to the proposed rule. First, this final rule does not include the proposed rule revisions to §§ 679.51, 679.53, and 679.32(c)(3)(i)(E)(*1*). When this proposed rule was published (June 15, 2012), NMFS expected that the final rule to restructure the Observer Program, which would add these sections, would be in effect. NMFS predicts that the final rule to restructure the Observer Program will be published and effective after this final rule takes effect. Therefore, the proposed revisions to §§ 679.51, 679.53 and 679.32(c)(3)(i)(E)(*1*) in the proposed rule are reflected as revisions to §§ 679.50 and 679.32(c)(3)(i)(F)(*1*) in this final rule. The intent and effect of these regulations has not changed.

Second, this final rule corrects an error made in § 679.32(c)(3)(i)(F)(*1*) in a final rule published on February 8, 2012 (77 FR 6492). NMFS identified the error in July, 2012, after CDQ groups and other affected Pacific cod harvesting entities asked NMFS for clarification on sampling requirements for CDQ sets on vessels using nontrawl gear. When NMFS reorganized the CDQ catch monitoring regulations in the February 8, 2012, final rule, NMFS inadvertently substituted ''hook-and-line gear'' for ''nontrawl gear'' in the requirement that each set be sampled by an observer. Because nontrawl gear includes both longline and pot gear, this regulatory amendment unintentionally expanded the requirement that each set be sampled to pot catcher/processors participating in groundfish CDQ fisheries. This was not NMFS' intent. In addition, NMFS carried this error forward in the proposed rule for this action (77 FR 35925; June 15, 2012). NMFS corrects this error by revising § 679.32(c)(3)(i)(F)(*1*) to remove the requirement that catcher/processors using pot gear to refer only to the observer coverage requirements that apply to these vessels and to remove the requirement that each set be sampled by an observer. This change is consistent with the regulations in effect prior to the error.

OMB Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, OMB, for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule adds a collection-of-information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the new sections resulting from this final rule.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law.

Pursuant to 5 U.S.C.553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on the correction to § 679.32(c)(3)(i)(F)(*1*) that is made in this final rule, as notice and comment is unnecessary and contrary to the public interest. After it received CDQ and affected fishery participants' clarification requests, NMFS recognized that the proposed rule inadvertently carried forward an error in § 679.32(c)(3)(i)(F)(*1*) that had been made in a previous final rule. This error affects only catcher/processors using pot gear in the groundfish CDQ fisheries. However, the error unintentionally increases observer sampling requirements on these vessels. By letter dated July 31, 2012, NMFS provided the CDQ groups actual notice of the error in the regulations and NMFS' intent to correct the error as soon as possible. Providing prior notice and opportunity to comment is contrary to the public interest. Unless the error is corrected immediately, public confusion regarding sampling requirements would persist and vessels would continue to be required to sample sets at a higher rate than NMFS meant to impose and was anticipated by the fishery participants. The correction will reduce the amount of sampling effort, thus freeing the affected participants from an unintended burden that affects their operations. Further, unless the error is corrected now, affected participants would continue to pay higher observer costs than was intended. No interested party will be adversely affected by this waiver.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a

regulatory flexibility analysis was not required and none was prepared.

Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB). The collection-of-information requirements are presented below by OMB control number.

OMB Control No. 0648–0213

The reporting requirements for the C/P longline or pot gear daily cumulative logbook (DCPL) are removed for certain C/Ps with this final rule; the electronic logbook (see OMB 0648–0515) is used in place of the DCPL by freezer longliners (C/Ps) named on LLP licenses endorsed to catch and process Pacific cod at sea with hook-and-line gear in the BSAI.

OMB Control No. 0648–0318

The Observer Program requirements are mentioned in this final rule; however, the public reporting burden for this collection-of-information is not directly affected by this final rule.

OMB Control No. 0648–0330

Public reporting burden is estimated to average 30 minutes for Pacific Cod Monitoring Option or Opt-out Notification Form; 2 hours for Inspection Request for an Electronic Monitoring System; 6 minutes for At-Sea Scales Inspection Request; 2 minutes for notification to observers of at-sea scale tests; 45 minutes for Record of Daily Flow Scale Test; 1 minute for printed output from at-sea scale; and 2 hours for Observer Sampling Station Inspection Request.

OMB Control No. 0648–0334

LLP license requirements are mentioned in this final rule; however, the public reporting burden for this collection-of-information is not directly affected by this final rule.

OMB Control No. 0648–0515

Public reporting burden is estimated to average 15 minutes for eLogbook registration and 41 minutes per active response and 5 minutes per inactive response for the C/P longline and pot gear eLogbook.

These reporting burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

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

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: September 21, 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 15 CFR Chapter IX and 50 CFR Chapter VI as follows:

15 CFR CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', add entries in alphanumeric order for '' 679.28(k)''; ''679.100(a) and (b)''; ''679.100(c)''; and ''679.100(d)''. The additions read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR.	
* * * * *	
679.28(k)	−0330, −0610
* * * * *	
679.100(a) and (b)	−0330, −0515
679.100(c)	−0515
679.100(d)	−0330
* * * * *	

50 CFR CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

■ 4. In § 679.5, revise paragraph (f)(1)(ii) and add paragraph (f)(1)(viii) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(f) * * *

(1) * * *

(ii) *Catcher/processor longline and pot gear ELB.* Except for catcher/processors subject to § 679.100(b), the operator of a catcher/processor using longline or pot gear may use a combination of a NMFS-approved catcher/processor longline and pot gear ELB and eLandings to record and report groundfish information. The operator may use a NMFS-approved catcher/processor longline and pot gear ELB to record daily processor identification information and catch-by-set information. In eLandings, the operator must record daily processor identification, groundfish production data, and groundfish and prohibited species discard or disposition data.

* * * * *

(viii) *Longline catcher/processor subsector.* The operator of a catcher/processor subject to § 679.100(b) must use a NMFS-approved catcher/processor longline and pot gear ELB to record processor identification information, catch-by-set information, and, if required to weigh Pacific cod on a NMFS-approved scale, the total Pacific cod weight from the scale for each set. This requirement applies for the entire year that the vessel is subject to § 679.100(b) and operating as a catcher/

processor using either longline or pot gear.

* * * * *

■ 5. In § 679.7, add paragraph (c)(1) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(c) * * *

(1) For vessel owners and operators subject to § 679.100(a), to use the vessel as a catcher/processor to conduct directed fishing for Pacific cod with hook-and-line gear in the BSAI or to conduct groundfish CDQ fishing.

* * * * *

■ 6. In § 679.28, add paragraph (k) to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(k) *Electronic monitoring in the longline catcher/processor subsector.* The owner and operator of a catcher/processor subject to § 679.100(b)(2) must provide and maintain a NMFS-approved electronic monitoring system at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing.

(1) In order to be approved by NMFS, the vessel owner and operator must provide an electronic monitoring system that include cameras, a monitor, and a digital video recorder that must—

(i) Provide sufficient resolution and field of view to monitor all areas where Pacific cod are sorted from the catch, all fish passing over the motion-compensated scale, and all crew actions in these areas.

(ii) Have sufficient data storage capacity to record all video data from an entire trip. Each frame of stored video data must record a time/date stamp in Alaska local time (A.l.t.).

(iii) Include at least one external USB (1.1 or 2.0) port or other removable storage device approved by NMFS.

(iv) Use commercially available software.

(v) Use color cameras, with a minimum of 470 TV lines of resolution, auto-iris capabilities, and output color video to the recording device with the ability to revert to black and white video output when light levels become too low for color recognition.

(vi) Record at a speed of no less than 5 frames per second at all times when Pacific cod are being sorted or weighed.

(2) NMFS staff, or any individual authorized by NMFS, must be able to view any footage from any point in the trip using a 16-bit or better color monitor that can display all cameras simultaneously and must be assisted by crew knowledgeable in the operation of the system.

(3) The vessel owner and operator must maintain the video data and make the data available to NMFS staff or any individual authorized by NMFS, upon request. The data must be retained onboard the vessel for no less than 120 days after the date the video is recorded, unless NMFS has notified the vessel owner in writing that the video data may be retained for less than this 120-day period.

(4) The vessel owner or operator must arrange for NMFS to inspect the electronic monitoring system and maintain a current NMFS-issued electronic monitoring system inspection report onboard the vessel at all times when the vessel is required to provide an approved electronic monitoring system.

(5) The vessel owner or operator must submit an Inspection Request for an Electronic Monitoring System to NMFS with all information fields accurately filled in. The application form is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov/*). NMFS will coordinate with the vessel owner to schedule the inspection no later than 10 working days after NMFS receives a complete request form.

(6) *Additional information required for an electronic monitoring system inspection.* (i) A diagram drawn to scale showing all sorting locations, the location of the motion-compensated scale, the location of each camera and its coverage area, and the location of any additional video equipment must be submitted with the Inspection Request for an Electronic Monitoring System form.

(ii) Any additional information requested by the Regional Administrator.

(7) Any change to the electronic monitoring system that would affect the system's functionality or ability to meet the requirements described at paragraph (k)(1) of this section must be submitted to, and approved by, NMFS in writing before that change is made.

(8) Inspections will be conducted on vessels tied to docks at Dutch Harbor, Alaska; Kodiak, Alaska; and in the Puget Sound area of Washington State.

(9) After an inspection, NMFS will issue an electronic monitoring system inspection report to the vessel owner, if the electronic monitoring system meets the requirements of paragraph (k) of this section. The electronic monitoring system report is valid for 12 months from the date it is issued by NMFS. The electronic monitoring system inspection report must be made available to the observer, NMFS personnel, or to an authorized officer upon request.

■ 7. In § 679.32, revise paragraph (c)(3)(i)(F)(*1*), and remove paragraph (c)(3)(ii)(G) to read as follows:

§ 679.32 CDQ fisheries monitoring and catch accounting.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(F) * * *

(*1*) Operators of catcher/processors using hook-and-line gear must comply with § 679.100. Operators of catcher/processors using pot gear must comply with observer coverage requirements at § 679.50(c)(4)(iii)(D); and

* * * * *

■ 8. In § 679.50, remove and reserve paragraph (c)(4)(iii)(C), revise paragraph (c)(1) introductory text and paragraph (j)(1)(v)(E)(*3*), and add paragraph (c)(8) to read as follows:

§ 679.50 Groundfish Observer Program.

* * * * *

(c) * * *

(1) Unless otherwise specified in paragraphs (c)(4) through (8) of this section, observer coverage is required as follows:

* * * * *

(8) *Longline catcher/processor subsector.* The owner and operator of a catcher/processor subject to § 679.100(b) must comply with the following observer coverage requirements:

(i) *Increased observer coverage option.* If the vessel owner selects the increased observer coverage option under § 679.100(b)(1), at least two observers must be aboard the vessel at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. At least one of the observers must be certified as a lead level 2 observer as described at § 679.50(j)(1)(v)(E)(*3*). More than two observers are required if the observer workload would otherwise preclude sampling as required under § 679.100(b)(1)(ii).

(ii) *Scales option.* If the vessel owner selects the scales option under § 679.100(b)(2), one lead level 2 observer as described at paragraph (j)(1)(v)(E)(*3*) of this section must be aboard the vessel at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing.

* * * * *

(j) * * *
(1) * * *
(v) * * *
(E) * * *
(*3*) A ''lead'' level 2 observer on a vessel using nontrawl gear must have completed two observer cruises (contracts) of at least 10 days each and sampled at least 30 sets on a vessel using nontrawl gear.

* * * * *

■ 9. Add subpart I to part 679 to read as follows:

Subpart I—Equipment and Operational Requirements for the Longline Catcher/Processor Subsector

§ 679.100 Applicability.

The owner and operator of a vessel named on an LLP license with a Pacific cod catcher-processor hook-and-line endorsement for the Bering Sea, Aleutian Islands or both the Bering Sea and Aleutian Islands must comply with the requirements of this subpart.

(a) *Opt out selection.* Each year, the owner of a vessel subject to this subpart who does not intend to directed fish for Pacific cod in the BSAI or conduct groundfish CDQ fishing at any time during a year may, by November 1 of the year prior to fishing, submit to NMFS a completed notification form to opt out of directed fishing for Pacific cod in the BSAI and groundfish CDQ fishing in the upcoming year. The notification form is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov/*). Once the vessel owner has selected to opt out, the owner must ensure that the vessel is not used as a catcher/processor to conduct directed fishing for Pacific cod with hook-and-line gear in the BSAI or to conduct groundfish CDQ fishing during the specified year.

(b) *Monitoring option selection.* Each year, the owner of a vessel subject to this subpart that does not opt out under paragraph (a) of this section must, by November 1 of the year prior to fishing, submit a completed notification form for one of two monitoring options to NMFS. The notification form is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov/*). The vessel owner must comply with the selected monitoring option at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing for the entire upcoming calendar year. If NMFS does not receive a notification to opt out or a notification for one of the two monitoring options by November 1 of the year prior to fishing, NMFS will assign that vessel to the increased observer coverage option under paragraph (b)(1) of this section for the upcoming calendar year.

(1) *Increased observer coverage option.* Under this option, the vessel owner and operator must ensure that—

(i) The vessel is in compliance with observer coverage requirements described at § 679.50(c)(8)(i).

(ii) The time required for an observer to complete sampling, data recording, and data communication duties may not exceed 12 consecutive hours in each 24-hour period.

(iii) An observer sampling station meeting the requirements at § 679.28(d) is available at all times, unless otherwise approved by NMFS.

(iv) All sets are made available for sampling by an observer.

(2) *Scales option.* Under this option—

(i) The vessel owner and operator must ensure that—

(A) The vessel is in compliance with observer coverage requirements described at § 679.50(c)(8)(ii).

(B) All Pacific cod brought onboard the vessel is weighed on a NMFS-approved scale in compliance with the scale requirements at § 679.28(b), and that each set is weighed and recorded separately.

(C) An observer sampling station meeting the requirements at § 679.28(d) is available at all times, unless otherwise approved by NMFS.

(D) The vessel is in compliance with the electronic monitoring requirements described at § 679.28(k).

(ii) NMFS will use the weight of all catch that passes over the scale for the purposes of accounting for Pacific cod catch.

(iii) At the time NMFS approves the scale used to weigh Pacific cod, NMFS will provide the vessel owner or operator with one of the following designations on the scale inspection report that will be used for catch accounting of Pacific cod for the duration of the approval period:

(A) *Scale prior to bleeding.* If the scale is located before the location where Pacific cod are bled, a PRR of 1.00 will be applied to all catch weighed on the motion-compensated scale.

(B) *Scale between bleeding and holding area.* If Pacific cod are bled before being weighed and prior to the bleeding holding area, a PRR of 0.99 will be applied to all catch weighed on the scale.

(C) *Scale after holding area.* If Pacific cod are bled and placed in a bleeding holding area before being weighed, a PRR of 0.98 will be applied to all catch weighed on the scale.

(c) *Electronic logbooks.* The operator of a vessel subject to paragraph (b) of this section at any time during a year must comply with the requirements for electronic logbooks at § 679.5(f) at all times during that year.

(d) During 2013, the vessel owner that has selected the increased observer coverage option under paragraph (b)(1) of this section may make a one-time change to the scales option as described under paragraph (b)(2) of this section. The owner must submit a completed notification form no later than May 1 to change monitoring options. The change in monitoring options will become effective June 10 and will remain effective until December 31.

[FR Doc. 2012–23721 Filed 9–25–12; 8:45 am]

BILLING CODE 3510–22–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–67901; File No. S7–19–10]

RIN 3235–AK69

Extension of Temporary Registration of Municipal Advisors

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; extension.

SUMMARY: The Securities and Exchange Commission (''Commission'') is amending interim final temporary Rule 15Ba2–6T, which provides for the temporary registration of municipal advisors under the Securities Exchange Act of 1934 (''Exchange Act''), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), to extend the date on which Rule 15Ba2–6T (and consequently Form MA–T) will sunset from September 30, 2012, to September 30, 2013. Under the amendment, all temporary registrations submitted pursuant to Rule 15Ba2–6T also will expire no later than September 30, 2013.

DATES: *Effective Date:* September 30, 2012. The expiration of the effective period of interim final temporary Rule 15Ba2–6T (17 CFR 240.15Ba2–6T) and Form MA–T (17 CFR 249.1300T) is delayed from September 30, 2012, to September 30, 2013.

FOR FURTHER INFORMATION CONTACT: Molly Kim, Senior Special Counsel, Office of Market Supervision, at (202) 551–5644; Yue Ding, Attorney-Adviser, Office of Market Supervision, at (202) 551–5842; Mary N. Simpkins, Senior Special Counsel, Office of Municipal Securities, at (202) 551–5683; Dave Sanchez, Attorney Fellow, Office of

Municipal Securities, at (202) 551–5540; John L. McWilliams, III, Attorney Fellow, Office of Municipal Securities, at (202) 551–5688; or any of the above at Division of Trading and Markets, Commission, 100 F Street, NE., Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION: The Commission is extending the expiration date for interim final temporary Rule 15Ba2–6T and Form MA–T under the Exchange Act.

I. Discussion

Section 15B(a)(1) of the Exchange Act,[1] as amended by Section 975(a)(1)(B) of the Dodd-Frank Act,[2] makes it unlawful for a municipal advisor to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, unless the municipal advisor is registered with the Commission. Section 15B(a)(2) of the Exchange Act,[3] as amended by Section 975(a)(2) of the Dodd-Frank Act, provides that a municipal advisor may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning the municipal advisor and any person associated with the municipal advisor as the Commission by rule may prescribe as necessary or appropriate in the public interest or for the protection of investors.

The registration requirement for municipal advisors became effective on October 1, 2010. On September 1, 2010, the Commission adopted interim final temporary Rule 15Ba2–6T under the Exchange Act,[4] which permits municipal advisors to temporarily satisfy the statutory registration requirement by completing Form MA–T [5] through the Commission's public Web site.[6] Rule 15Ba2–6T serves as a transitional step to the implementation of a permanent registration program, makes relevant information available to the public and municipal entities, and permits municipal advisors to continue their business after October 1, 2010.

Under Rule 15Ba2–6T, as initially adopted, all temporary registrations submitted pursuant to that rule would have expired on the earlier of: (1) The date that the municipal advisor's registration is approved or disapproved by the Commission pursuant to a final rule adopted by the Commission establishing another manner of registration of municipal advisors and prescribing a form for such purpose;[7] (2) the date on which the municipal advisor's temporary registration is rescinded by the Commission; or (3) on December 31, 2011. Also, as initially adopted, Rule 15Ba2–6T itself would have expired on December 31, 2011. On December 21, 2011, however, the Commission amended Rule 15Ba2–6T to extend the date on which that rule and Form MA–T would sunset from December 31, 2011, to September 30, 2012.[8] Accordingly, as amended, all temporary registrations submitted pursuant to Rule 15Ba2–6T will expire no later than September 30, 2012. Further, existing Rule 15Ba2–6T will expire on September 30, 2012.

As stated in the Interim Release and the Extension Release, the Commission believes that providing a temporary registration process for municipal advisors, pursuant to an interim final temporary rule, is necessary and appropriate, is consistent with the intent of Congress in enacting Section 975 of the Dodd-Frank Act, and can provide investors and municipal entities with basic and important information while the Commission considers a permanent registration program.[9] As noted above, however, Rule 15Ba2–6T and Form MA–T, as extended, will expire on September 30, 2012. Accordingly, the Commission has determined that it is necessary and appropriate to extend the expiration date of Rule 15Ba2–6T and Form MA–T to September 30, 2013.

The extension will provide a method for municipal advisors to continue to temporarily satisfy the registration requirement under Section 15B of the Exchange Act until the Commission promulgates a final rule that establishes another manner of registration of municipal advisors, prescribes a form for such purpose, and develops an electronic registration system. The extension will prevent a gap between the time at which the temporary rule expires and at which municipal advisors must be registered with the Commission under a permanent registration regime. The Commission notes that it is adopting the amendment to Rule 15Ba2–6T only to extend the expiration date of that rule and, consequently, the expiration date of Form MA–T. The Commission is not making any other amendments to Rule 15Ba2–6T or Form MA–T.

The Commission is amending Rule 15Ba2–6T(e) to provide that all temporary registrations submitted pursuant to Rule 15Ba2–6T will expire on the earlier of: (1) The date that the municipal advisor's registration is approved or disapproved by the Commission pursuant to a final rule adopted by the Commission establishing another manner of registration of municipal advisors and prescribing a form for such purpose; (2) the date on which the municipal advisor's temporary registration is rescinded by the Commission; or (3) on September 30, 2013. The Commission is also amending Rule 15Ba2–6T(f) to provide that the interim final temporary rule will expire on September 30, 2013. Thus, absent further action by the Commission, Rule 15Ba2–6T and Form MA–T will expire on September 30, 2013 at 11:59 p.m. Eastern Time.

As previously noted in the Extension Release, the Commission has considered the seven comment letters received on the Interim Release and, given the limited nature of this extension and the Commission's ongoing process of considering permanent rules for the registration of municipal advisors, the Commission is not making any other changes to Rule 15Ba2–6T and Form

[1] 15 U.S.C. 78*o*–4(a)(1).

[2] Public Law 111–203, 124 Stat. 1376 (2010).

[3] 15 U.S.C. 78*o*–4(a)(2).

[4] 17 CFR 240.15Ba2–6T.

[5] 17 CFR 249.1300T.

[6] *See* Securities Exchange Act Release No. 62824 (September 1, 2010), 75 FR 54465 (September 8, 2010) (''Interim Release''). The Commission received seven comment letters on the Interim Release. *See* letters from Brad R. Jacobsen, dated September 7, 2010; John J. Wagner, Kutak Rock LLP, dated September 28, 2010; Joy A. Howard, Principal, WM Financial Strategies, dated October 5, 2010; Steve Apfelbacher, President, National Association of Independent Public Finance Advisors, dated October 8, 2010; Carolyn Walsh, Vice President and Senior Counsel, Center for Securities, Trust and Investments, American Bankers Association, Deputy General Counsel, ABA Securities Association, dated October 13, 2010; Amy Natterson Kroll and W. Hardy Callcott, Bingham McCutchen LLP, on behalf of the National Association of Energy Service Companies, dated October 13, 2010; and Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated November 15, 2010.

[7] On December 20, 2010, the Commission proposed for public comment rules for the permanent registration of municipal advisors. *See* Securities Exchange Act Release No. 63576 (December 20, 2010), 76 FR 824 (January 6, 2011) (''Proposing Release'').

[8] *See* Securities Exchange Act Release No. 66020 (December 21, 2011), 76 FR 80733 (December 27, 2011) (''Extension Release''). In the Extension Release, the Commission inadvertently omitted a reference to Subpart N and 17 CFR 249.1300T in the ''Statutory Authority and Text of Rule and Amendments'' section. As such, Subpart N, which consists of 17 CFR 249.1300T, was deleted from the Code of Federal Regulations. On July 12, 2012, the Commission adopted a technical amendment to restore Subpart N and 249.1300T to Title 17 of the Code of Federal Regulations. *See* Securities Exchange Act Release No. 66020A (July 12, 2012), 77 FR 42176 (July 18, 2012).

[9] *See* Interim Release, *supra* note 6, at 54466 and Extension Release, *supra* note 8, at 80733–34.

MA–T.[10] Making other changes to the temporary registration regime could require municipal advisors relying on the temporary rule and form to make adjustments or amendments to their operations or forms that otherwise may be applicable only until the permanent regime becomes effective. The Commission also notes that the comment letters received in response to the Interim Release were addressed in the Proposing Release and were considered for purposes of the proposed rules for the registration of municipal advisors.

The amendments to Rule 15Ba2–6T will be effective on September 30, 2012. The Administrative Procedure Act (''APA'') generally requires an agency to publish notice of a proposed rulemaking in the **Federal Register**.[11] This requirement does not apply, however, if the agency ''for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [12] The Commission notes that extending the expiration date of the temporary municipal advisor registration regime will not affect the substantive provisions of Rule 15Ba2–6T and Form MA–T. The extension will merely allow municipal advisors to continue to comply with the statutory registration requirement and thus continue to operate as municipal advisors until a permanent registration regime becomes effective. Extending the expiration date of Rule 15Ba2–6T and Form MA–T also will prevent a regulatory gap from developing between the temporary and permanent registration regimes. The extension, consequently, is designed to be temporally limited in scope until the Commission establishes a permanent registration regime for municipal advisors. For these reasons, and the reasons discussed throughout this release, the Commission believes that there is good cause to extend the expiration date of Rule 15Ba2–6T and Form MA–T to September 30, 2013 and to find that notice and solicitation of comment on the extension is impracticable, unnecessary, or contrary to the public interest.[13]

The APA also generally requires that an agency publish a substantive rule in the **Federal Register** not less than 30 days before its effective date.[14] However, this requirement does not apply if the agency finds good cause and publishes such cause with the rule.[15] For reasons similar to those explained above, the Commission finds good cause not to delay the effective date of the extension.

In connection with the adoption of Rule 15Ba2–6T and Form MA–T, the Commission submitted to the Office of Management and Budget (''OMB'') a request for approval of the ''collection of information'' requirements contained in the temporary rule and form in accordance with the Paperwork Reduction Act of 1995.[16] OMB initially approved the collection of information on an emergency basis with an expiration date of March 31, 2011. The Commission subsequently submitted a request for extension of the approval, and OMB extended the approval to March 31, 2014. The collection of information to which Rule 15Ba2–6T and Form MA–T relates is ''Rule 15Ba2–6T and Form MA–T—Temporary Registration of Municipal Advisors.'' The OMB control number for the collection of information is 3235–0659. Since the Commission is not amending Rule 15Ba2–6T or the disclosure requirements contained in Form MA–T other than to extend the expiration date for Rule 15Ba2–6T and Form MA–T, this amendment will not change the ''collection of information'' previously approved by the OMB.

The Commission is sensitive to the costs and benefits of its rules. The Commission has previously considered and discussed the costs and benefits of Rule 15Ba2–6T and Form MA–T.[17] Since the Commission is not amending Rule 15Ba2–6T and Form MA–T other than to extend the expiration date, the Commission believes that the same general analysis will continue to apply for the period of the extension. However, the Commission notes that allowing municipal advisors to continue to comply with the statutory registration requirement until a permanent registration regime becomes effective and preventing a regulatory gap from developing between the temporary and permanent registration regimes are important benefits.

Since the Commission is only extending the expiration date for Rule 15Ba2–6T and Form MA–T and is not substantively changing them, the Commission's estimated burden for each municipal advisor to complete and amend Form MA–T remains unchanged.[18] However, the Commission estimates that as a result of the amendment, approximately 180 [19] new municipal advisors will register between October 1, 2012, and September 30, 2013, at a total labor cost of approximately $198,000.[20] With regard to the 180 new municipal advisors and the municipal advisors already registered pursuant to Rule 15Ba2–6T, the Commission estimates

[10] *See* Extension Release, *supra* note 8, at 80734.

[11] *See* 5 U.S.C. 553(b).

[12] *See* 5 U.S.C. 553(b)(3)(B).

[13] This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the rule amendments to become effective notwithstanding the requirements of 5 U.S.C. 801 (if a federal agency finds that notice and public comment are ''impracticable, unnecessary, or contrary to the public interest,'' a rule ''shall take effect at such time as the Federal agency promulgating the rule determines''). Because the Commission is not publishing the rule amendments in a notice of proposed rulemaking, no analysis is required under the Regulatory Flexibility Act. *See* 5 U.S.C. 601(2) (for purposes of the Regulatory Flexibility Act, the term ''rule'' means any rule for which the agency publishes a general notice of proposed rulemaking).

[14] *See* 5 U.S.C. 553(d).

[15] *See* 5 U.S.C. 553(d)(3).

[16] 44 U.S.C. 3501 *et seq.*

[17] For a detailed description of the costs and benefits of Rule 15Ba2–6T and Form MA–T, *see* Interim Release, *supra* note 6, at 54474–75. *See also* Extension Release, *supra* note 8, at 80734–35.

[18] The Commission notes that in the Interim Release, it estimated that approximately 1,000 municipal advisors would be required to complete Form MA–T. *See* Interim Release, *supra* note 6, at 54473. It further conservatively estimated that all 1,000 municipal advisors would have to amend their forms once between September 1, 2010, and December 31, 2011, recognizing that the actual number would likely be lower than 1,000. *See id.* In the Extension Release, the Commission estimated that, as a result of the extension of Rule 15Ba2–6T and Form MA–T, approximately 162 new municipal advisors will register between January 1, 2012, and September 30, 2012, at a total labor cost of approximately $168,000. *See* Extension Release, *supra* note 8, at 80735. With regard to the 162 new municipal advisors and the municipal advisors already registered pursuant to Rule 15Ba2–6T, the Commission estimated that, between January 1, 2012, and September 30, 2012, there will be approximately 160 amendments and withdrawals at a total labor cost of approximately $22,000. *See id.*

[19] The Commission estimates that, between October 1, 2012, and September 30, 2013, there will be approximately 15 initial registrations per month, which is the average number of initial registrations the Commission has received per month between January 2011 and July 2012.

[20] 180 (estimated number of initial registrations) × 2.5 hours (estimated time to complete Form MA–T) = 450 hours; 450 hours × $279 (hourly rate for a Compliance Manager) = $125,550. The $279 per hour figure for a Compliance Manager is from SIFMA's *Management & Professional Earnings in the Securities Industry 2011,* modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. 180 (estimated number of new municipal advisors that will hire outside counsel) × 1 hour (estimated time spent by outside counsel to help a new municipal advisor to comply with the rule) × $400 (hourly rate for outside legal services) = $72,000. This is based on an estimated $400 per hour cost for outside legal services. This is the same estimate used for the Commission's consolidated audit trail rule. *See* Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (August 1, 2012). $125,550 + $72,000 = $197,550. *See* Interim Release, *supra* note 6, at 54473–74. The estimated burden for each municipal advisor to complete Form MA–T and the estimated use of outside counsel by each municipal advisor remains unchanged from the Interim Release.

that, between October 1, 2012, and September 30, 2013, there will be approximately 96 [21] amendments and withdrawals at a total labor cost of approximately $13,000.[22]

Section 3(f) of the Exchange Act requires the Commission, whenever it engages in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action would promote efficiency, competition, and capital formation.[23] In addition, Section 23(a)(2) of the Exchange Act requires the Commission, when making rules under the Exchange Act, to consider the impact such rules would have on competition.[24] Section 23(a)(2) of the Exchange Act prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[25]

In the Interim Release, the Commission considered the effects of Rule 15Ba2–6T and Form MA–T on efficiency, competition, and capital formation.[26] Since the Commission is not amending Rule 15Ba2–6T and Form MA–T other than to extend their expiration date, the Commission believes that the same analysis applies and continues to believe that Rule 15Ba2–6T and Form MA–T, as extended, will not result in a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

[21] The Commission estimates the number of amendments and withdrawals based on the number of amendments to, and withdrawals from, registration on Form MA–T that the Commission received as of July 31, 2012. Specifically, between September 2010 and July 2012, the Commission received 192 amendments and withdrawals on Form MA–T, or an average of approximately 8 amendments and withdrawals each month. The Commission estimates that for the 12 months between October 1, 2012 and September 30, 2013, the Commission will continue to receive an average of 8 amendments and withdrawals each month, or 96 amendments and withdrawals in total.

[22] 96 (estimated number of amendments and withdrawals) × 0.5 hours (estimated time to amend Form MA–T) = 48 hours; 48 hours × $279 (hourly rate for a Compliance Manager) = $13,392. *See* Interim Release, *supra* note 6, at 54473–74. The estimated burden for each municipal advisor to complete an amended Form MA–T remains unchanged from the Interim Release. The $279 per hour figure for a Compliance Manager is from SIFMA's *Management & Professional Earnings in the Securities Industry 2011,* modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[23] *See* 15 U.S.C. 78c(f).

[24] *See* 15 U.S.C. 78w(a)(2).

[25] *See id.*

[26] *See* Interim Release, *supra* note 6, at 54475.

II. Statutory Authority and Text of Rule and Amendments

Pursuant to the Exchange Act, and particularly Section 15B (15 U.S.C. 78*o*-4), the Commission is amending § 240.15Ba2–6T and restating § 249.1300T of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Municipal advisors, Temporary registration requirements.

Text of Rule and Amendments

For the reasons set out in the preamble, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The general authority citation for Part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* 18 U.S.C. 1350, 12 U.S.C. 5221(e)(3), and Sec. 939A, Pub. L. 111–203, 124 Stat. 1376, (2010), unless otherwise noted.

* * * * *

§ 240.15Ba2–6T [Amended]

■ 2. In § 240.15Ba2–6T, remove the words ''September 30, 2012'' wherever they appear and add, in their place, the words ''September 30, 2013''.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 3. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 4. Subpart N, consisting of § 249.1300T, continues to read as follows:

Subpart N—Forms for Registration of Municipal Advisors

§ 249.1300T Form MA–T—For temporary registration as a municipal advisor, and for amendments to, and withdrawals from, temporary registration.

The form shall be used for temporary registration as a municipal advisor, and for amendments to, and withdrawals from, temporary registration pursuant to Section 15B of the Exchange Act, (15 U.S.C. 78*o*–4).

[**Note:** The text of Form MA–T does not, and the amendments will not, appear in the Code of Federal Regulations.]

By the Commission.

Dated: September 21, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–23688 Filed 9–25–12; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 24, 162, 163, and 178

[USCBP–2012–0017; CBP Dec. 12–16]

RIN 1515–AD88

United States-Colombia Trade Promotion Agreement

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This rule amends the U.S. Customs and Border Protection (CBP) regulations on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the United States-Colombia Trade Promotion Agreement entered into by the United States and the Republic of Colombia.

DATES: Interim rule effective September 26, 2012; comments must be received by November 26, 2012.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments via docket number USCBP–2012–0017.

• *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. 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 number for this rulemaking. 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 this 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 Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. 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:

Textile Operational Aspects: Nancy Mondich, Trade Policy and Programs, Office of International Trade, (202) 863–6524.

Other Operational Aspects: Katrina Chang, Trade Policy and Programs, Office of International Trade, (202) 863–6532.

Legal Aspects: Karen Greene, Regulations and Rulings, Office of International Trade, (202) 325–0041.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim 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 interim rule. Comments that will provide the most assistance to CBP in developing these regulations will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

Background

On November 22, 2006, the United States and Colombia (the ''Parties'') signed the United States-Colombia Trade Promotion Agreement (''CTPA'' or ''Agreement''), and on June 28, 2007, the Parties signed a protocol amending the Agreement. The CTPA provides for reciprocal trade liberalization between the United States and Colombia. It is a comprehensive, trade opening agreement that will eliminate tariffs and other barriers to trade, open each county's market for service providers, and promote investment.

On October 21, 2011, the President signed into law the United States-Colombia Trade Promotion Agreement Implementation Act (the ''Act''), Public Law 112–42, 125 Stat. 462 (19 U.S.C. 3805 note), which approved and made statutory changes to implement the CTPA. Section 103 of the Act requires that regulations be prescribed as necessary to implement the provisions of the CTPA.

On May 14, 2012, the President signed Proclamation 8818 to implement the CTPA. The Proclamation, which was published in the **Federal Register** on May 18, 2012, (77 FR 29519), modified the Harmonized Tariff Schedule of the United States (''HTSUS'') as set forth in Annexes I and II of Publication 4320 of the U.S. International Trade Commission. The modifications to the HTSUS included the addition of new General Note 34, incorporating the relevant CTPA rules of origin as set forth in the Act, and the insertion throughout the HTSUS of the preferential duty rates applicable to individual products under the CTPA where the special program indicator ''CO'' appears in parenthesis in the ''Special'' rate of duty subcolumn. The modifications to the HTSUS also included a new Subchapter XXI to Chapter 99 to provide for temporary tariff-rate quotas and applicable safeguards implemented by the CTPA, as well as modifications to Subchapter XXII of HTSUS Chapter 98. After the Proclamation was signed, CBP issued instructions to the field and the public implementing the Agreement by allowing the trade to receive the benefits under the CTPA effective on or after May 15, 2012.

U.S. Customs and Border Protection (''CBP'') is responsible for administering the provisions of the CTPA and the Act that relate to the importation of goods into the United States from Colombia. Those customs-related CTPA provisions, which require implementation through regulation, include certain tariff and non-tariff provisions within Chapter One (Initial Provisions and General Definitions), Chapter Two (National Treatment and Market Access for Goods), Chapter Three (Textiles and Apparel), Chapter Four (Rules of Origin and Origin Procedures), and Chapter Five (Customs Administration and Trade Facilitation).

Certain general definitions set forth in Chapter One of the CTPA have been incorporated into the CTPA implementing regulations. These regulations also implement Article 2.6 (Goods Re-entered After Repair or Alteration) of the CTPA.

Chapter Three of the CTPA sets forth provisions relating to trade in textile and apparel goods between Colombia and the United States. The provisions within Chapter Three that require regulatory action by CBP are Articles 3.2 (Customs Cooperation and Verification of Origin), Article 3.3 (Rules of Origin, Origin Procedures, and Related Matters), and Article 3.5 (Definitions).

Chapter Four of the CTPA sets forth the rules for determining whether an imported good is an originating good of a Party and, as such, is therefore eligible for preferential tariff (duty-free or reduced duty) treatment under the CTPA as specified in the Agreement and the HTSUS. The basic rules of origin in Section A of Chapter Four are set forth in General Note 34, HTSUS.

Under Article 4.1 of Chapter Four and section 203(b) of the Act, originating goods may be grouped in three broad categories: (1) Goods that are wholly obtained or produced entirely in the territory of one or both of the Parties; (2) goods that are produced entirely in the territory of one or both of the Parties and that satisfy the product-specific rules of origin in CTPA Annex 4.1 (Specific Rules of Origin; change in tariff classification requirement and/or regional value content requirement) or Annex 3–A (Textile and Apparel Specific Rules of Origin) and all other applicable requirements of Chapter Four; and (3) goods that are produced entirely in the territory of one or both of the Parties exclusively from originating materials. Article 4.2 (section 203(c) of the Act) sets forth the methods for calculating the regional value content of a good. Articles 4.3 and 4.4 (section 203(d) of the Act) set forth the rules for determining the value of materials for purposes of calculating the regional value content of a good. Article 4.5 (section 203(e) of the Act) provides that production that takes place in the territory of one or both of the Parties may be accumulated such that, provided other requirements are met, the resulting good is considered originating. Article 4.6 (section 203(f) of the Act) provides a *de minimis* criterion. The remaining Articles within Section A of Chapter Four consist of additional sub-rules applicable to the originating good concept, involving: fungible goods and materials (Article 4.7; section 203(g) of the Act); accessories, spare parts, and tools (Article 4.8; section 203(h) of the Act); sets of goods (Article 4.9; section 203(m) of the Act); packaging materials and containers for retail sale (Article 4.10; section 203(i) of the Act); packing

materials and containers for shipment (Article 4.11; section 203(j) of the Act); indirect materials (Article 4.12; section 203(k) of the Act); transit and transshipment (Article 4.13; section 203(l) of the Act); and consultation and modifications (Article 4.14) . All Articles within Section A are reflected in the CTPA implementing regulations, except for Article 4.14 (Consultation and Modifications).

Section B of Chapter Four sets forth procedures that apply under the CTPA in regard to claims for preferential tariff treatment. Specifically, Section B includes provisions concerning: claims for preferential tariff treatment (Article 4.15); exceptions to the certification requirement (Article 4.16); recordkeeping requirements (Article 4.17); verification of preference claims (Article 4.18); obligations relating to importations (Article 4.19) and exportations (Article 4.20); common guidelines (Article 4.21); implementation (Article 4.22); and definitions of terms used within the context of the rules of origin (Article 4.23). All Articles within Section B, except for Articles 4.21 (Common Guidelines) and 4.22 (Implementation) are reflected in these implementing regulations.

Chapter Five sets forth operational provisions related to customs administration and trade facilitation under the CTPA. Article 5.9 (section 205 of the Act), concerning the general application of penalties to CTPA transactions, is the only provision within Chapter Five that is reflected in the CTPA implementing regulations.

The majority of the CTPA implementing regulations set forth in this document have been included within Subpart T in Part 10 of the CBP regulations (19 CFR Part 10). However, in those cases in which CTPA implementation is more appropriate in the context of an existing regulatory provision, the CTPA regulatory text has been incorporated in an existing Part within the CBP regulations. In addition, this document sets forth several cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new CTPA implementing regulations. The regulatory changes are discussed below in the order in which they appear in this document.

Discussion of Amendments

Part 10

Section 10.31(f) concerns temporary importations under bond. It is amended by adding references to certain goods originating in Colombia for which, as in the case of goods originating in Canada, Mexico, Singapore, Chile, Morocco, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, Bahrain, Oman, Peru, or Korea, no bond or other security will be required when imported temporarily for prescribed uses. The provisions of CTPA Article 2.5 (Temporary Admission of Goods) are already reflected in existing temporary importation bond or other provisions contained in Part 10 of the CBP regulations and in Chapter 98 of the HTSUS.

Part 10, Subpart T

General Provisions

Section 10.3001 outlines the scope of Subpart T, Part 10 of the CBP regulations. This section also clarifies that, except where the context otherwise requires, the requirements contained in Subpart T, Part 10, are in addition to general administrative and enforcement provisions set forth elsewhere in the CBP regulations. Thus, for example, the specific merchandise entry requirements contained in Subpart T, Part 10 are in addition to the basic entry requirements contained in Parts 141–143 of the CBP regulations.

Section 10.3002 sets forth definitions of common terms used within Subpart T, Part 10. Although the majority of the definitions in this section are based on definitions contained in Article 1.3 and Annex 1.3 of the CTPA, and section 3 of the Act, other definitions have also been included to clarify the application of the regulatory texts. Additional definitions that apply in a more limited Subpart T, Part 10, context are set forth elsewhere with the substantive provisions to which they relate.

Import Requirements

Section 10.3003 sets forth the procedure for claiming CTPA preferential tariff treatment at the time of entry and, as provided in CTPA Article 4.15.1, states that an importer may make a claim for CTPA preferential tariff treatment based on a certification by the importer, exporter, or producer or the importer's knowledge that the good is an originating good. Section 10.3003 also provides, consistent with CTPA Article 4.19.4(d), that when an importer has reason to believe that a claim is based on inaccurate information, the importer must correct the claim and pay any duties that may be due.

Section 10.3004, which is based on CTPA Articles 4.15 and 4.19.4, requires a U.S. importer, upon request, to submit a copy of the certification of the importer, exporter, or producer if the certification forms the basis for the claim. Section 10.3004 specifies the information that must be included on the certification, sets forth the circumstances under which the certification may be prepared by the exporter or producer of the good, and provides that the certification may be used either for a single importation or for multiple importations of identical goods.

Section 10.3005 sets forth certain importer obligations regarding the truthfulness of information and documents submitted in support of a claim for preferential tariff treatment. Section 10.3006, which is based on CTPA Article 4.16, provides that the certification is not required for certain non-commercial or low-value importations.

Section 10.3007 implements CTPA Article 4.17 concerning the maintenance of relevant records regarding the imported good.

Section 10.3008, which reflects CTPA Article 4.19.2, authorizes the denial of CTPA tariff benefits if the importer fails to comply with any of the requirements under Subpart T, Part 10, CBP regulations.

Export Requirements

Section 10.3009, which implements CTPA Articles 4.20.1 and 4.17.1, sets forth certain obligations of a person who completes and issues a certification for a good exported from the United States to Colombia. Paragraphs (a) and (b) of § 10.3009, reflecting CTPA Article 4.20.1, require a person who completes such a certification to provide a copy of the certification to CBP upon request and to give prompt notification of any errors in the certification to every person to whom the certification was given. Paragraph (c) of § 10.3009 reflects Article 4.17.1, concerning the recordkeeping requirements that apply to a person who completes and issues a certification for a good exported from the United States to Colombia.

Post-Importation Duty Refund Claims

Sections 10.3010 through 10.3012 implement CTPA Article 4.19.5 and section 206 of the Act, which allow an importer who did not claim CTPA tariff benefits on a qualifying good at the time of importation to apply for a refund of any excess duties at any time within one year after the date of importation. Such a claim may be made even if liquidation of the entry would otherwise be considered final under other provisions of law.

Rules of Origin

Sections 10.3013 through 10.3025 provide the implementing regulations regarding the rules of origin provisions of General Note 34, HTSUS, Chapter Four and Article 3.3 of the CTPA, and section 203 of the Act.

Definitions

Section 10.3013 sets forth terms that are defined for purposes of the rules of origin as found in section 203(n) of the Act.

General Rules of Origin

Section 10.3014 sets forth the basic rules of origin established in Article 4.1 of the CTPA, section 203(b) of the Act, and General Note 34, HTSUS. The provisions of § 10.3014 apply both to the determination of the status of an imported good as an originating good for purposes of preferential tariff treatment and to the determination of the status of a material as an originating material used in a good which is subject to a determination under General Note 34, HTSUS.

Section 10.3014(a), reflecting section 203(b)(1) of the Act, specifies those goods that are originating goods because they are wholly obtained or produced entirely in the territory of one or both of the Parties.

Section 10.3014(b), reflecting section 203(b)(2) of the Act, provides that goods that have been produced entirely in the territory of one or both of the Parties from non-originating materials, each of which undergoes an applicable change in tariff classification and satisfies any applicable regional value content or other requirement set forth in General Note 34, HTSUS, are originating goods. Essential to the rules in § 10.3014(b) are the specific rules of General Note 34, HTSUS, which are incorporated by reference.

Section 10.3014(c), reflecting section 203(b)(3) of the Act, provides that goods that have been produced entirely in the territory of one or both of the Parties exclusively from originating materials are originating goods.

Value Content

Section 10.3015 reflects CTPA Article 4.2 and section 203(c) of the Act concerning the basic rules that apply for purposes of determining whether an imported good satisfies a minimum regional value content (''RVC'') requirement. Section 10.3016, reflecting CTPA Articles 4.3, 4.4 and section 203(d) of the Act, sets forth the rules for determining the value of a material for purposes of calculating the regional value content of a good as well as for purposes of applying the *de minimis* rules.

Accumulation

Section 10.3017, which is derived from CTPA Article 4.5 and section 203(e) of the Act, sets forth the rule by which originating materials from the territory of a Party that are used in the production of a good in the territory of the other Party will be considered to originate in the territory of that other country. In addition, this section also establishes that a good that is produced by one or more producers in the territory of one or both of the Parties is an originating good if the good satisfies all of the applicable requirements of the rules of origin of the CTPA.

De Minimis

Section 10.3018, as provided for in CTPA Article 4.6 and section 203(f) of the Act, sets forth *de minimis* rules for goods that may be considered to qualify as originating goods even though they fail to qualify as originating goods under the rules specified in § 10.3014. There are a number of exceptions to the *de minimis* rule set forth in CTPA Annex 4.6 (Exceptions to Article 4.6) as well as a separate rule for textile and apparel goods.

Fungible Goods and Materials

Section 10.3019, as provided for in CTPA Article 4.7 and section 203(g) of the Act, sets forth the rules by which ''fungible'' goods or materials may be claimed as originating.

Accessories, Spare Parts, or Tools

Section 10.3020, as provided for in CTPA Article 4.8 and section 203(h) of the Act, specifies the conditions under which a good's standard accessories, spare parts, or tools are: (1) Treated as originating goods; and (2) disregarded in determining whether all non-originating materials undergo an applicable change in tariff classification under General Note 34, HTSUS.

Goods Classifiable as Goods Put Up in Sets

Section 10.3021, as provided for in CTPA Articles 3.3.10 and 4.9 and section 203(m) of the Act, provides that, notwithstanding the specific rules of General Note 34, HTSUS, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not qualify as originating goods unless: (1) Each of the goods in the set is an originating good; or (2) the total value of the non-originating goods in the set does not exceed 15 percent of the adjusted value of the set, or 10 percent of the adjusted value of the set in the case of textile or apparel goods.

Packaging Materials and Packing Materials

Sections 10.3022 and 10.3023, as provided for in CTPA Articles 4.10 and 4.11 and sections 203(i) and (j) of the Act, respectively, provide that retail packaging materials and packing materials for shipment are to be disregarded with respect to their actual origin in determining whether non-originating materials undergo an applicable change in tariff classification under General Note 34, HTSUS. These sections also set forth the treatment of packaging and packing materials for purposes of the regional value content requirement of the note.

Indirect Materials

Section 10.3024, as provided for in CTPA Article 4.12 and section 203(k) of the Act, provides that indirect materials, as defined in § 10.3013(h), are considered to be originating materials without regard to where they are produced.

Transit and Transshipment

Section 10.3025, as provided for in CTPA Article 4.13 and section 203(l) of the Act, sets forth the rule that an originating good loses its originating status and is treated as a non-originating good if, subsequent to production in the territory of one or both of the Parties that qualifies the good as originating, the good: (1) Undergoes production outside the territories of the Parties, other than certain specified minor operations; or (2) does not remain under the control of customs authorities in the territory of a non-Party.

Origin Verifications and Determinations

Section 10.3026 implements CTPA Article 4.18 which concerns the conduct of verifications to determine whether imported goods are originating goods entitled to CTPA preferential tariff treatment. This section also governs the conduct of verifications directed to producers of materials that are used in the production of a good for which CTPA preferential duty treatment is claimed.

Section 10.3027, as provided for in CTPA Article 3.2 and section 208 of the Act, sets forth the verification and enforcement procedures specifically relating to trade in textile and apparel goods.

Section 10.3028 also implements CPTA Articles 3.2 and 4.18, and sections 205, 208 and 209 of the Act and provides the procedures that apply when preferential tariff treatment is

denied on the basis of an origin verification conducted under Subpart T of Part 10 of the CBP regulations.

Section 10.3029 implements CTPA Article 4.18.5 and section 205(b) of the Act, concerning the denial of preferential tariff treatment in situations in which there is a pattern of conduct by an importer, exporter, or producer of false or unsupported CTPA preference claims.

Penalties

Section 10.3030 concerns the general application of penalties to CTPA transactions and is based on CTPA Article 5.9 and section 205 of the Act.

Section 10.3031 implements CTPA Article 4.19.3 and section 205(a)(1) of the Act with regard to an exception to the application of penalties in the case of an importer who promptly and voluntarily makes a corrected claim and pays any duties owing.

Section 10.3032 implements CPTPA Article 4.20.2 and section 205(a)(2) of the Act, concerning an exception to the application of penalties in the case of a U.S. exporter or producer who promptly and voluntarily provides notification of the making of an incorrect certification with respect to a good exported to Colombia.

Section 10.3033 sets forth the circumstances under which the making of a corrected claim or certification by an importer or the providing of notification of an incorrect certification by a U.S. exporter or producer will be considered to have been done ''promptly and voluntarily.'' Corrected claims or certifications that fail to meet these requirements are not excepted from penalties, although the U.S. importer, exporter, or producer making the corrected claim or certification may, depending on the circumstances, qualify for a reduced penalty as a prior disclosure under 19 U.S.C. 1592(c)(4). Section 10.3033(c) also specifies the content of the statement that must accompany each corrected claim or certification, including any certifications and records demonstrating that a good is an originating good.

Goods Returned After Repair or Alteration

Section 10.3034 implements CTPA Article 2.6 regarding duty-free treatment for goods re-entered after repair or alteration in Colombia.

Other Amendments

Part 24

An amendment is made to § 24.23(c) (19 CFR 24.23(c)), which concerns the merchandise processing fee, to implement section 204 of the Act providing that the merchandise processing fee is not applicable to goods that qualify as originating goods under the CTPA.

Part 162

Part 162 contains regulations regarding the inspection and examination of, among other things, imported merchandise. A cross-reference is added to § 162.0 (19 CFR 162.0), which prescribes the scope of that part, to refer readers to the additional CTPA records maintenance and examination provisions contained in Subpart T, Part 10, CBP regulations.

Part 163

A conforming amendment is made to § 163.1 (19 CFR 163.1) to include the maintenance of any documentation, as required by section 207 of the Act, that the importer may have in support of a claim for preference under the CTPA as an activity for which records must be maintained. Also, the list of records and information required for the entry of merchandise appearing in the Appendix to Part 163 (commonly known as the ''(a)(1)(A) list'') is also amended to add the records that the importer may have in support of a CTPA claim for preferential tariff treatment.

Part 178

Part 178 sets forth the control numbers assigned to information collections of CBP by the Office of Management and Budget, pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The list contained in § 178.2 (19 CFR 178.2) is amended to add the information collections used by CBP to determine eligibility for preferential tariff treatment under the CTPA and the Act.

Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (''APA'') (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these interim regulations involve a foreign affairs function of the United States because they implement preferential tariff treatment and related provisions of the CTPA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication. However, CBP is soliciting comments in this interim rule and will consider all comments received before issuing a final rule.

Executive Order 12866 and Regulatory Flexibility Act

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 4, 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information contained in these regulations are under the review of the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control numbers 1651–0117, which covers many of the free trade agreement requirements that CBP administers, and 1651–0076, which covers general recordkeeping requirements. The addition of the CTPA requirements will result in an increase in the number of respondents and burden hours for this information collection. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

The collections of information in these regulations are in §§ 10.3003, 10.3004, and 10.3007. This information is required in connection with general recordkeeping requirements (§§ 10.3007), as well as claims for preferential tariff treatment under the CTPA and the Act and will be used by CBP to determine eligibility for tariff preference under the CTPA and the Act (§§ 10.3003 and 10.3004). The likely respondents are business organizations

including importers, exporters and manufacturers.

Estimated total annual burden: 8,000.

Estimated number of respondents: 40,000.

Estimated annual frequency of responses per respondent: 1.

Estimated average annual burden per response: .2 hours.

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC 20229–1179.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 24

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

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

Amendments to the Regulations

Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for part 10 continues to read, and the specific authority for new subpart T is added, to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

Sections 10.3001 through 10.3034 also issued under 19 U.S.C. 1202 (General Note 34, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 112–42, 125 Stat. 462 (19 U.S.C. 3805 note).

■ 2. In § 10.31(f):

■ a. The words ''Customs Form'' are removed each place that they appear and the words ''CBP Form'' are added in each place; and

■ b. The sixth sentence is revised.

The revision to § 10.31(f) reads as follows:

§ 10.31 Entry; bond.

* * * * *

(f) * * * In addition, notwithstanding any other provision of this paragraph, in the case of professional equipment necessary for carrying out the business activity, trade or profession of a business person, equipment for the press or for sound or television broadcasting, cinematographic equipment, articles imported for sports purposes and articles intended for display or demonstration, if brought into the United States by a resident of Canada, Mexico, Singapore, Chile, Morocco, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, Bahrain, Oman, Peru, the Republic of Korea, or Colombia and entered under Chapter 98, Subchapter XIII, HTSUS, no bond or other security will be required if the entered article is a good originating, within the meaning of General Note 12, 25, 26, 27, 29, 30, 31, 32, 33, and 34, HTSUS, in the country of which the importer is a resident.

* * * * *

■ 3a. Part 10, CBP regulations, is amended by adding and reserving subpart S.

■ 3b. Part 10, CBP regulations, is amended by adding subpart T to read as follows:

Subpart T—United States-Colombia Trade Promotion Agreement

General Provisions

Sec.
10.3001 Scope.
10.3002 General definitions.

Import Requirements

10.3003 Filing of claim for preferential tariff treatment upon importation.
10.3004 Certification.
10.3005 Importer obligations.
10.3006 Certification not required.
10.3007 Maintenance of records.
10.3008 Effect of noncompliance; failure to provide documentation regarding transshipment.

Export Requirements

10.3009 Certification for goods exported to Colombia.

Post-Importation Duty Refund Claims

10.3010 Right to make post-importation claim and refund duties.
10.3011 Filing procedures.
10.3012 CBP processing procedures.

Rules of Origin

10.3013 Definitions.
10.3014 Originating goods.
10.3015 Regional value content.
10.3016 Value of materials.
10.3017 Accumulation.
10.3018 De minimis.
10.3019 Fungible goods and materials.
10.3020 Accessories, spare parts, or tools.
10.3021 Goods classifiable as goods put up in sets.
10.3022 Retail packaging materials and containers.
10.3023 Packing materials and containers for shipment.
10.3024 Indirect materials.
10.3025 Transit and transshipment.

Origin Verifications and Determinations

10.3026 Verification and justification of claim for preferential tariff treatment.
10.3027 Special rule for verifications in Colombia of U.S. imports of textile and apparel goods.
10.3028 Issuance of negative origin determinations.
10.3029 Repeated false or unsupported preference claims.

Penalties

10.3030 General.
10.3031 Corrected claim or certification by importers.
10.3032 Corrected certification by exporters or producers.
10.3033 Framework for correcting claims or certifications.

Goods Returned After Repair or Alteration

10.3034 Goods re-entered after repair or alteration in Colombia.

Subpart T—United States-Colombia Trade Promotion Agreement

General Provisions

§ 10.3001 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported and exported goods under the United States-Colombia Trade Promotion Agreement (the CTPA) signed on November 22, 2006, and under the United States-Colombia Trade Promotion Agreement Implementation Act (the ''Act''), Public Law 112–42, 125 Stat. 462 (19 U.S.C. 3805 note). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the CTPA and the Act are contained in Parts 24, 162, and 163 of this chapter.

§ 10.3002 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment.* ''Claim for preferential tariff treatment'' means a claim that a good is entitled to the duty rate applicable under the CTPA to an originating good and to an exemption from the merchandise processing fee;

(b) *Claim of origin.* ''Claim of origin'' means a claim that a textile or apparel good is an originating good or satisfies the non-preferential rules of origin of a Party;

(c) *Customs authority.* ''Customs authority'' means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;

(d) *Customs duty.* ''Customs duty'' includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party's domestic law; or

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered;

(e) *Customs Valuation Agreement.* ''Customs Valuation Agreement'' means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994,* contained in Annex 1A to the WTO Agreement;

(f) *Days.* ''Days'' means calendar days;

(g) *Enterprise.* ''Enterprise'' means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(h) *Enterprise of a Party.* ''Enterprise of a Party'' means an enterprise constituted or organized under a Party's law;

(i) *Goods of a Party.* ''Goods of a Party'' means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party.

(j) *GATT 1994.* ''GATT 1994'' means the *General Agreement on Tariffs and Trade 1994,* which is part of the *WTO Agreement;*

(k) *Harmonized System.* ''Harmonized System'' means the *Harmonized Commodity Description and Coding System,* including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(l) *Heading.* ''Heading'' means the first four digits in the tariff classification number under the Harmonized System;

(m) *HTSUS.* ''HTSUS'' means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(n) *Identical goods.* ''Identical goods'' means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods;

(o) *Originating.* ''Originating'' means qualifying for preferential tariff treatment under the rules of origin set out in Article 3.3 (Textiles and Apparel) or Chapter Four (Rules of Origin and Origin Procedures) of the CTPA, and General Note 34, HTSUS;

(p) *Party.* ''Party'' means the United States or Colombia;

(q) *Person.* ''Person'' means a natural person or an enterprise;

(r) *Preferential tariff treatment.* ''Preferential tariff treatment'' means the duty rate applicable under the CTPA to an originating good, and an exemption from the merchandise processing fee;

(s) *Subheading.* ''Subheading'' means the first six digits in the tariff classification number under the Harmonized System;

(t) *Textile or apparel good.* ''Textile or apparel good'' means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as ''the ATC''), which is part of the WTO Agreement, except for those goods listed in Annex 3–C of the CTPA;

(u) *Territory.* ''Territory'' means:

(1) With respect to Colombia, in addition to its continental territory, the archipelago of San Andrés, Providencia and Santa Catalina, the islands of Malpelo, and all the other islands, islets, keys, headlands and shoals that belong to it, as well as air space and the maritime areas over which Colombia has sovereignty or sovereign rights or jurisdiction in accordance with its domestic law and international law, including applicable international treaties; and

(2) With respect to the United States:

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;

(ii) The foreign trade zones located in the United States and Puerto Rico; and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;

(v) *WTO.* ''WTO'' means the World Trade Organization; and

(w) *WTO Agreement.* ''WTO Agreement'' means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

Import Requirements

§ 10.3003 Filing of claim for preferential tariff treatment upon importation.

(a) *Basis of claim.* An importer may make a claim for CTPA preferential tariff treatment, including an exemption from the merchandise processing fee, based on either:

(1) A written or electronic certification, as specified in § 10.3004, that is prepared by the importer, exporter, or producer of the good; or

(2) The importer's knowledge that the good is an originating good, including reasonable reliance on information in the importer's possession that the good is an originating good.

(b) *Making a claim.* The claim is made by including on the entry summary, or equivalent documentation, the letters ''CO'' as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method

specified for equivalent reporting via an authorized electronic data interchange system.

(c) *Corrected claim.* If, after making the claim specified in paragraph (b) of this section, the importer has reason to believe that the claim is based on inaccurate information or is otherwise invalid, the importer must, within 30 calendar days after the date of discovery of the error, correct the claim and pay any duties that may be due. The importer must submit a statement either in writing or via an authorized electronic data interchange system to the CBP office where the original claim was filed specifying the correction (*see* §§ 10.3031 and 10.3033).

§ 10.3004 Certification.

(a) *General.* An importer who makes a claim pursuant to § 10.3003(b) based on a certification by the importer, exporter, or producer that the good is originating must submit, at the request of the port director, a copy of the certification. The certification:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must be in the possession of the importer at the time the claim for preferential tariff treatment is made if the certification forms the basis for the claim;

(3) Must include the following information:

(i) The legal name, address, telephone number, and email address of the certifying person;

(ii) If not the certifying person, the legal name, address, telephone number, and email address of the importer of record, the exporter, and the producer of the good, if known;

(iii) The legal name, address, telephone number, and email address of the responsible official or authorized agent of the importer, exporter, or producer signing the certification (if different from the information required by paragraph (a)(3)(i) of this section);

(iv) A description of the good for which preferential tariff treatment is claimed, which must be sufficiently detailed to relate it to the invoice and the HS nomenclature;

(v) The HTSUS tariff classification, to six or more digits, as necessary for the specific change in tariff classification rule for the good set forth in General Note 34, HTSUS; and

(vi) The applicable rule of origin set forth in General Note 34, HTSUS, under which the good qualifies as an originating good;

(vii) Date of certification;

(viii) In case of a blanket certification issued with respect to multiple shipments of identical goods within any period specified in the written or electronic certification, not exceeding 12 months from the date of certification, the period that the certification covers; and

(4) Must include a statement, in substantially the following form:

''I certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain and present upon request, documentation necessary to support these representations;

The goods comply with all requirements for preferential tariff treatment specified for those goods in the United States-Colombia Trade Promotion Agreement; and

This document consists of _____ pages, including all attachments.''

(b) *Responsible official or agent.* The certification provided for in paragraph (a) of this section must be signed and dated by a responsible official of the importer, exporter, or producer, or by the importer's, exporter's, or producer's authorized agent having knowledge of the relevant facts.

(c) *Language.* The certification provided for in paragraph (a) of this section must be completed in either the English or Spanish language. In the latter case, the port director may require the importer to submit an English translation of the certification.

(d) *Certification by the exporter or producer.* (1) A certification may be prepared by the exporter or producer of the good on the basis of:

(i) The exporter's or producer's knowledge that the good is originating; or

(ii) In the case of an exporter, reasonable reliance on the producer's certification that the good is originating.

(2) The port director may not require an exporter or producer to provide a written or electronic certification to another person.

(e) *Applicability of certification.* The certification provided for in paragraph (a) of this section may be applicable to:

(1) A single shipment of a good into the United States; or

(2) Multiple shipments of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the certification.

(f) *Validity of certification.* A certification that is properly completed, signed, and dated in accordance with the requirements of this section will be accepted as valid for four years following the date on which it was issued

§ 10.3005 Importer obligations.

(a) *General.* An importer who makes a claim for preferential tariff treatment under § 10.3003(b):

(1) Will be deemed to have certified that the good is eligible for preferential tariff treatment under the CTPA;

(2) Is responsible for the truthfulness of the claim and of all the information and data contained in the certification provided for in § 10.3004; and

(3) Is responsible for submitting any supporting documents requested by CBP, and for the truthfulness of the information contained in those documents. When a certification prepared by an exporter or producer forms the basis of a claim for preferential tariff treatment, and CBP requests the submission of supporting documents, the importer will provide to CBP, or arrange for the direct submission by the exporter or producer of, all information relied on by the exporter or producer in preparing the certification.

(b) *Information provided by exporter or producer.* The fact that the importer has made a claim or submitted a certification based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in paragraph (a) of this section.

(c) *Exemption from penalties.* An importer will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for making an incorrect claim for preferential tariff treatment or submitting an incorrect certification, provided that the importer promptly and voluntarily corrects the claim or certification and pays any duty owing (*see* §§ 10.3031 through 10.3033).

§ 10.3006 Certification not required.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a copy of a certification under § 10.3004 for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the originating goods does not exceed U.S. $2,500.

(b) *Exception.* If the port director determines that an importation described in paragraph (a) of this section is part of a series of importations carried out or planned for the purpose of evading compliance with the certification requirements of § 10.3004,

the port director will notify the importer that for that importation the importer must submit to CBP a copy of the certification. The importer must submit such a copy within 30 days from the date of the notice. Failure to timely submit a copy of the certification will result in denial of the claim for preferential tariff treatment.

§ 10.3007 Maintenance of records.

(a) *General.* An importer claiming preferential tariff treatment for a good (based on either the importer's certification or its knowledge, or on the certification issued by the exporter or producer) imported into the United States under § 10.3003(b) must maintain, for a minimum of five years after the date of importation of the good, all records and documents that the importer has demonstrating that the good qualifies for preferential tariff treatment under the CTPA. These records are in addition to any other records that the importer is required to prepare, maintain, or make available to CBP under Part 163 of this chapter.

(b) *Method of maintenance.* The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in § 163.5 of this chapter.

§ 10.3008 Effect of noncompliance; failure to provide documentation regarding transshipment.

(a) *General.* If the importer fails to comply with any requirement under this subpart, including submission of a complete certification prepared in accordance with § 10.3004 of this subpart, when requested, the port director may deny preferential tariff treatment to the imported good.

(b) *Failure to provide documentation regarding transshipment.* Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential tariff treatment to an originating good if the good is shipped through or transshipped in a country other than a Party to the CTPA, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the conditions set forth in § 10.3025(a) were met.

Export Requirements

§ 10.3009 Certification for goods exported to Colombia.

(a) *Submission of certification to CBP.* Any person who completes and issues a certification for a good exported from the United States to Colombia must provide a copy of the certification (written or electronic) to CBP upon request.

(b) *Notification of errors in certification.* Any person who completes and issues a certification for a good exported from the United States to Colombia and who has reason to believe that the certification contains or is based on incorrect information must promptly notify every person to whom the certification was provided of any change that could affect the accuracy or validity of the certification. Notification of an incorrect certification must also be given either in writing or via an authorized electronic data interchange system to CBP specifying the correction (*see* §§ 10.3032 and 10.3033).

(c) *Maintenance of records*—(1) *General.* Any person who completes and issues a certification for a good exported from the United States to Colombia must maintain, for a period of at least five years after the date the certification was issued, all records and supporting documents relating to the origin of a good for which the certification was issued, including the certification or copies thereof and records and documents associated with:

(i) The purchase, cost, and value of, and payment for, the good;

(ii) The purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) The production of the good in the form in which the good was exported.

(2) *Method of maintenance.* The records referred to in paragraph (c) of this section must be maintained as provided in § 163.5 of this chapter.

(3) *Availability of records.* For purposes of determining compliance with the provisions of this part, the records required to be maintained under this section must be stored and made available for examination and inspection by the port director or other appropriate CBP officer in the same manner as provided in Part 163 of this chapter.

Post-Importation Duty Refund Claims

§ 10.3010 Right to make post-importation claim and refund duties.

Notwithstanding any other available remedy, where a good would have qualified as an originating good when it was imported into the United States but no claim for preferential tariff treatment was made, the importer of that good may file a claim for a refund of any excess duties at any time within one year after the date of importation of the good in accordance with the procedures set forth in § 10.3011. Subject to the provisions of § 10.3008, CBP may refund any excess duties by liquidation or reliquidation of the entry covering the good in accordance with § 10.3012(c).

§ 10.3011 Filing procedures.

(a) *Place of filing.* A post-importation claim for a refund must be filed with the director of the port at which the entry covering the good was filed.

(b) *Contents of claim.* A post-importation claim for a refund must be filed by presentation of the following:

(1) A written or electronic declaration or statement stating that the good was an originating good at the time of importation and setting forth the number and date of the entry or entries covering the good;

(2) A copy of a written or electronic certification prepared in accordance with § 10.3004 if a certification forms the basis for the claim, or other information demonstrating that the good qualifies for preferential tariff treatment;

(3) A written statement indicating whether the importer of the good provided a copy of the entry summary or equivalent documentation to any other person. If such documentation was so provided, the statement must identify each recipient by name, CBP identification number, and address and must specify the date on which the documentation was provided; and

(4) A written statement indicating whether any person has filed a protest relating to the good under any provision of law; and if any such protest has been filed, the statement must identify the protest by number and date.

§ 10.3012 CBP processing procedures.

(a) *Status determination.* After receipt of a post-importation claim made pursuant to § 10.3011, the port director will determine whether the entry covering the good has been liquidated and, if liquidation has taken place, whether the liquidation has become final.

(b) *Pending protest or judicial review.* If the port director determines that any protest relating to the good has not been finally decided, the port director will suspend action on the claim filed under § 10.3011 until the decision on the protest becomes final. If a summons involving the tariff classification or dutiability of the good is filed in the Court of International Trade, the port director will suspend action on the claim filed under § 10.3011 until judicial review has been completed.

(c) *Allowance of claim*—(1) *Unliquidated entry.* If the port director determines that a claim for a refund filed under § 10.3011 should be allowed and the entry covering the good has not been liquidated, the port director will

take into account the claim for refund in connection with the liquidation of the entry.

(2) *Liquidated entry.* If the port director determines that a claim for a refund filed under § 10.3011 should be allowed and the entry covering the good has been liquidated, whether or not the liquidation has become final, the entry must be reliquidated in order to effect a refund of duties under this section. If the entry is otherwise to be reliquidated based on administrative review of a protest or as a result of judicial review, the port director will reliquidate the entry taking into account the claim for refund under § 10.3011.

(d) *Denial of claim*—(1) *General.* The port director may deny a claim for a refund filed under § 10.3011 if the claim was not filed timely, if the importer has not complied with the requirements of § 10.3008 and 10.3011, or if, following an origin verification under § 10.3026, the port director determines either that the imported good was not an originating good at the time of importation or that a basis exists upon which preferential tariff treatment may be denied under § 10.3026.

(2) *Unliquidated entry.* If the port director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has not been liquidated, the port director will deny the claim in connection with the liquidation of the entry, and notice of the denial and the reason for the denial will be provided to the importer in writing or via an authorized electronic data interchange system.

(3) *Liquidated entry.* If the port director determines that a claim for a refund filed under this subpart should be denied and the entry covering the good has been liquidated, whether or not the liquidation has become final, the claim may be denied without reliquidation of the entry. If the entry is otherwise to be reliquidated based on administrative review of a protest or as a result of judicial review, such reliquidation may include denial of the claim filed under this subpart. In either case, the port director will provide notice of the denial and the reason for the denial to the importer in writing or via an authorized electronic data interchange system.

Rules of Origin

§ 10.3013 Definitions.

For purposes of §§ 10.3013 through 10.3025:

(a) *Adjusted value.* ''Adjusted value'' means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, adjusted, if necessary, to exclude:

(1) Any costs, charges, or expenses incurred for transportation, insurance and related services incident to the international shipment of the good from the country of exportation to the place of importation; and

(2) The value of packing materials and containers for shipment as defined in paragraph (n) of this section;

(b) *Class of motor vehicles.* ''Class of motor vehicles'' means any one of the following categories of motor vehicles:

(1) Motor vehicles classified under subheading 8701.20, motor vehicles for the transport of 16 or more persons classified under 8704.10 or 8702.90, HTSUS, and motor vehicles classified under subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706;

(2) Motor vehicles classified under subheading 8701.10 or subheadings 8701.30 through 8701.90, HTSUS;

(3) Motor vehicles for the transport of 15 or fewer persons classified under subheading 8702.10 or 8702.90, HTSUS, and motor vehicles of subheading 8704.21 or 8704.31, HTSUS; or

(4) Motor vehicles classified under subheadings 8703.21 through 8703.90, HTSUS;

(c) *Exporter.* ''Exporter'' means a person who exports goods from the territory of a Party;

(d) *Fungible good or material.* ''Fungible good or material'' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material;

(e) *Generally Accepted Accounting Principles.* ''Generally Accepted Accounting Principles'' means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

(f) *Good.* ''Good'' means any merchandise, product, article, or material;

(g) *Goods wholly obtained or produced entirely in the territory of one or both of the Parties.* ''Goods wholly obtained or produced entirely in the territory of one or both of the Parties'' means:

(1) Plants and plant products harvested or gathered in the territory of one or both of the Parties;

(2) Live animals born and raised in the territory of one or both of the Parties;

(3) Goods obtained in the territory of one or both of the Parties from live animals;

(4) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of one or both of the Parties;

(5) Minerals and other natural resources not included in paragraphs (g)(1) through (g)(4) of this section that are extracted or taken in the territory of one or both of the Parties;

(6) Fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of the Parties by:

(i) Vessels registered or recorded with Colombia and flying its flag; or

(ii) Vessels documented under the laws of the United States;

(7) Goods produced on board factory ships from the goods referred to in paragraph (g)(6) of this section, if such factory ships are:

(i) Registered or recorded with Colombia and fly its flag; or

(ii) Documented under the laws of the United States;

(8) Goods taken by a Party or a person of a Party from the seabed or subsoil outside territorial waters, if a Party has rights to exploit such seabed or subsoil;

(9) Goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;

(10) Waste and scrap derived from:

(i) Manufacturing or processing operations in the territory of one or both of the Parties; or

(ii) Used goods collected in the territory of one or both of the Parties, if such goods are fit only for the recovery of raw materials;

(11) Recovered goods derived in the territory of one or both of the Parties from used goods, and used in the territory of one or both of the Parties in the production of remanufactured goods; and

(12) Goods produced in the territory of one or both of the Parties exclusively from goods referred to in any of paragraphs (g)(1) through (g)(10) of this section, or from the derivatives of such goods, at any stage of production;

(h) *Indirect Material.* ''Indirect material'' means a good used in the production, testing, or inspection of another good in the territory of one or both of the Parties but not physically incorporated into that other good, or a good used in the maintenance of

buildings or the operation of equipment associated with the production of another good, including:

(1) Fuel and energy;

(2) Tools, dies, and molds;

(3) Spare parts and materials used in the maintenance of equipment or buildings;

(4) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;

(6) Equipment, devices, and supplies used for testing or inspecting the good;

(7) Catalysts and solvents; and

(8) Any other good that is not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production.

(i) *Material.* ''Material'' means a good that is used in the production of another good, including a part or an ingredient;

(j) *Model line.* ''Model line'' means a group of motor vehicles having the same platform or model name;

(k) *Net cost.* ''Net cost'' means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;

(l) *Non-allowable interest costs.* ''Non-allowable interest costs'' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the Party in which the producer is located;

(m) *Non-originating good or non-originating material.* ''Non-originating good'' or ''non-originating material'' means a good or material, as the case may be, that does not qualify as originating under General Note 34, HTSUS, or this subpart;

(n) *Packing materials and containers for shipment.* ''Packing materials and containers for shipment'' means the goods used to protect a good during its transportation to the United States, and does not include the packaging materials and containers in which a good is packaged for retail sale;

(o) *Producer.* ''Producer'' means a person who engages in the production of a good in the territory of a Party;

(p) *Production.* ''Production'' means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good;

(q) *Reasonably allocate.* ''Reasonably allocate'' means to apportion in a manner that would be appropriate under Generally Accepted Accounting Principles;

(r) *Recovered goods.* ''Recovered goods'' means materials in the form of individual parts that are the result of:

(1) The disassembly of used goods into individual parts; and

(2) The cleaning, inspecting, testing, or other processing that is necessary to improve such individual parts to sound working condition;

(s) *Remanufactured good.* ''Remanufactured good'' means an industrial good assembled in the territory of one or both of the Parties that is classified in Chapter 84, 85, 87, or 90 or heading 9402, HTSUS, other than a good classified in heading 8418 or 8516, HTSUS, and that:

(1) Is entirely or partially comprised of recovered goods as defined in paragraph (r) of this section; and

(2) Has a similar life expectancy and enjoys a factory warranty similar to such new goods;

(t) *Royalties.* ''Royalties'' means payments of any kind, including payments under technical assistance agreements or similar agreements, made as consideration for the use of, or right to use, any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance agreements or similar agreements that can be related to specific services such as:

(1) Personnel training, without regard to where performed; and

(2) If performed in the territory of one or both of the Parties, engineering, tooling, die-setting, software design and similar computer services;

(u) *Sales promotion, marketing, and after-sales service costs.* ''Sales promotion, marketing, and after-sales service costs'' means the following costs related to sales promotion, marketing, and after-sales service:

(1) Sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing, and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;

(2) Sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;

(3) Salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), traveling and living expenses, membership and professional fees, for sales promotion, marketing, and after-sales service personnel;

(4) Recruiting and training of sales promotion, marketing, and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(5) Product liability insurance;

(6) Office supplies for sales promotion, marketing, and after-sales service of goods, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(7) Telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer;

(8) Rent and depreciation of sales promotion, marketing, and after-sales service offices and distribution centers;

(9) Property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing, and after-sales service offices and distribution centers, where such costs are identified separately for sales promotion, marketing, and after-sales service of goods on the financial statements or cost accounts of the producer; and

(10) Payments by the producer to other persons for warranty repairs;

(v) *Self-produced material.* ''Self-produced material'' means an originating material that is produced by a producer of a good and used in the production of that good;

(w) *Shipping and packing costs.* ''Shipping and packing costs'' means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale;

(x) *Total cost.* ''Total cost'' means all product costs, period costs, and other costs for a good incurred in the territory of one or both of the Parties. Product costs are costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead. Period costs are costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses. Other costs are all costs recorded on the books of the producer that are not product costs or period

costs, such as interest. Total cost does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes;

(y) *Used.* ''Used'' means utilized or consumed in the production of goods; and

(z) *Value.* ''Value'' means the value of a good or material for purposes of calculating customs duties or for purposes of applying this subpart.

§ 10.3014 Originating goods.

Except as otherwise provided in this subpart and General Note 34, HTSUS, a good imported into the customs territory of the United States will be considered an originating good under the CTPA only if:

(a) The good is wholly obtained or produced entirely in the territory of one or both of the Parties;

(b) The good is produced entirely in the territory of one or both of the Parties and:

(1) Each non-originating material used in the production of the good undergoes an applicable change in tariff classification specified in General Note 34, HTSUS, and the good satisfies all other applicable requirements of General Note 34, HTSUS; or

(2) The good otherwise satisfies any applicable regional value content or other requirements specified in General Note 34, HTSUS, and satisfies all other applicable requirements of General Note 34, HTSUS; or

(c) The good is produced entirely in the territory of one or both of the Parties exclusively from originating materials.

§ 10.3015 Regional value content.

(a) *General.* Except for goods to which paragraph (d) of this section applies, where General Note 34, HTSUS, sets forth a rule that specifies a regional value content test for a good, the regional value content of such good must be calculated by the importer, exporter, or producer of the good on the basis of the build-down method described in paragraph (b) of this section or the build-up method described in paragraph (c) of this section.

(b) *Build-down method.* Under the build-down method, the regional value content must be calculated on the basis of the formula RVC = ((AV − VNM)/AV) × 100, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(c) *Build-up method.* Under the build-up method, the regional value content must be calculated on the basis of the formula RVC = (VOM/AV) × 100, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VOM is the value of originating materials that are acquired or self-produced and used by the producer in the production of the good.

(d) *Special rule for certain automotive goods*—(1) *General.* Where General Note 34, HTSUS, sets forth a rule that specifies a regional value content test for an automotive good provided for in any of subheadings 8407.31 through 8407.34 (engines), subheading 8408.20 (diesel engine for vehicles), heading 8409 (parts of engines), or headings 8701 through 8705 (motor vehicles), and headings 8706 (chassis), 8707 (bodies), and 8708 (motor vehicle parts), HTSUS, the regional value content of such good shall be calculated by the importer, exporter, or producer of the good on the basis of the net cost method described in paragraph (d)(2) of this section.

(2) *Net cost method.* Under the net cost method, the regional value content is calculated on the basis of the formula RVC = ((NC − VNM)/NC) × 100, where RVC is the regional value content, expressed as a percentage; NC is the net cost of the good; and VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced. Consistent with the provisions regarding allocation of costs set out in Generally Accepted Accounting Principles, the net cost of the good must be determined by:

(i) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) Reasonably allocating each cost that forms part of the total costs incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, or non-allowable interest costs.

(3) *Motor vehicles*—(i) *General.* For purposes of calculating the regional value content under the net cost method for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over the producer's fiscal year using any one of the categories described in paragraph (d)(3)(ii) of this section either on the basis of all motor vehicles in the category or those motor vehicles in the category that are exported to the territory of one or both Parties.

(ii) *Categories.* The categories referred to in paragraph (d)(3)(i) of this section are as follows:

(A) The same model line of motor vehicles, in the same class of vehicles, produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated;

(B) The same class of motor vehicles, and produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated; and

(C) The same model line of motor vehicles produced in the territory of a Party as the motor vehicle for which the regional value content is being calculated.

(4) *Other automotive goods*—(i) *General.* For purposes of calculating the regional value content under the net cost method for automotive goods provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, 8706, 8707, or 8708, HTSUS, that are produced in the same plant, an importer, exporter, or producer may:

(A) Average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over any of the following: the fiscal year, or any quarter or month, of the motor vehicle producer to whom the automotive good is sold, or the fiscal year, or any quarter or month, of the producer of the automotive good, provided the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(B) Determine the average referred to in paragraph (d)(4)(i)(A) of this section separately for such goods sold to one or more motor vehicle producers; or

(C) Make a separate determination under paragraph (d)(4)(i)(A) or (d)(4)(i)(B) of this section for automotive goods that are exported to the territory of Colombia or the United States.

(ii) *Duration of use.* A person selecting an averaging period of one month or quarter under paragraph (d)(4)(i)(A) of this section must continue to use that method for that category of automotive goods throughout the fiscal year.

§ 10.3016 Value of materials.

(a) *Calculating the value of materials.* Except as provided in § 10.3024, for purposes of calculating the regional value content of a good under General Note 34, HTSUS, and for purposes of applying the *de minimis* (*see* § 10.3018) provisions of General Note 34, HTSUS, the value of a material is:

(1) In the case of a material imported by the producer of the good, the adjusted value of the material;

(2) In the case of a material acquired by the producer in the territory where the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, of the material, i.e., in the same manner as for imported goods, with reasonable modifications to the provisions of the Customs Valuation Agreement as may be required due to the absence of an importation by the producer (including, but not limited to, treating a domestic purchase by the producer as if it were a sale for export to the country of importation); or

(3) In the case of a self-produced material, the sum of:

(i) All expenses incurred in the production of the material, including general expenses; and

(ii) An amount for profit equivalent to the profit added in the normal course of trade.

(b) *Examples.* The following examples illustrate application of the principles set forth in paragraph (a)(2) of this section:

Example 1. A producer in Colombia purchases material x from an unrelated seller in Colombia for $100. Under the provisions of Article 1 of the Customs Valuation Agreement, transaction value is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8. In order to apply Article 1 to this domestic purchase by the producer, such purchase is treated as if it were a sale for export to the country of importation. Therefore, for purposes of determining the adjusted value of material x, Article 1 transaction value is the price actually paid or payable for the goods when sold to the producer in Colombia ($100), adjusted in accordance with the provisions of Article 8. In this example, it is irrelevant whether material x was initially imported into Colombia by the seller (or by anyone else). So long as the producer acquired material x in Colombia, it is intended that the value of material x will be determined on the basis of the price actually paid or payable by the producer adjusted in accordance with the provisions of Article 8.

Example 2. Same facts as in Example 1, except that the sale between the seller and the producer is subject to certain restrictions that preclude the application of Article 1. Under Article 2 of the Customs Valuation Agreement, the value is the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued. In order to permit the application of Article 2 to the domestic acquisition by the producer, it should be modified so that the value is the transaction value of identical goods sold within Colombia at or about the same time the goods were sold to the producer in Colombia. Thus, if the seller of material x also sold an identical material to another buyer in Colombia without restrictions, that other sale would be used to determine the adjusted value of material x.

(c) *Permissible additions to, and deductions from, the value of materials*—(1) *Additions to originating materials.* For originating materials, the following expenses, if not included under paragraph (a) of this section, may be added to the value of the originating material:

(i) The costs of freight (''cost of freight'' includes the costs of all types of freight, including in-land freight incurred within a Party's territory, regardless of the mode of transportation), insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable; and

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(2) *Deductions from non-originating materials.* For non-originating materials, if included under paragraph (a) of this section, the following expenses may be deducted from the value of the non-originating material:

(i) The costs of freight (''cost of freight'' includes the costs of all types of freight, including in-land freight incurred within a Party's territory, regardless of the mode of transportation), insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable;

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products; and

(iv) The cost of originating materials used in the production of the non-originating material in the territory of one or both of the Parties.

(d) *Accounting method.* Any cost or value referenced in General Note 34, HTSUS, and this subpart, must be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

§ 10.3017 Accumulation.

(a) Originating materials from the territory of a Party that are used in the production of a good in the territory of another Party will be considered to originate in the territory of that other Party.

(b) A good that is produced in the territory of one or both of the Parties by one or more producers is an originating good if the good satisfies the requirements of § 10.3014 and all other applicable requirements of General Note 34, HTSUS.

§ 10.3018 De minimis.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, a good that does not undergo a change in tariff classification pursuant to General Note 34, HTSUS, is an originating good if:

(1) The value of all non-originating materials used in the production of the good that do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good;

(2) The value of the non-originating materials described in paragraph (a)(1) of this section is included in the value of non-originating materials for any applicable regional value content requirement for the good under General Note 34, HTSUS; and

(3) The good meets all other applicable requirements of General Note 34, HTSUS.

(b) *Exceptions.* Paragraph (a) of this section does not apply to:

(1) A non-originating material provided for in Chapter 4, HTSUS, or a non-originating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, HTSUS, that is used in the production of a good provided for in Chapter 4, HTSUS;

(2) A non-originating material provided for in Chapter 4, HTSUS, or a non-originating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, HTSUS, which is used in the production of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10, HTSUS;

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20, HTSUS;

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, HTSUS;

(iv) Goods provided for in heading 2105, HTSUS;

(v) Beverages containing milk provided for in subheading 2202.90, HTSUS; or

(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90, HTSUS;

(3) A non-originating material provided for in heading 0805, HTSUS, or any of subheadings 2009.11 through 2009.39, HTSUS, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, HTSUS, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90, HTSUS;

(4) A non-originating material provided for in heading 0901 or 2101, HTSUS, that is used in the production of a good provided for in heading 0901 or 2101, HTSUS;

(5) A non-originating material provided for in headings 1501 through 1508, HTSUS, or headings 1511 through 1515, HTSUS;

(6) A non-originating material provided for in heading 1701, HTSUS, that is used in the production of a good provided for in any of headings 1701 through 1703, HTSUS;

(7) A non-originating material provided for in Chapter 17, HTSUS, that is used in the production of a good provided for in subheading 1806.10, HTSUS; or

(8) Except as provided in paragraphs (b)(1) through (b)(7) of this section and General Note 34, HTSUS, a non-originating material used in the production of a good provided for in any of Chapters 1 through 24, HTSUS, unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this subpart.

(c) *Textile and apparel goods*—(1) *General.* Except as provided in paragraph (c)(2) of this section, a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in General Note 34, HTSUS, will nevertheless be considered to be an originating good if:

(i) The total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

(ii) The yarns are nylon filament yarns (other than elastomeric yarns) that are provided for in subheading 5402.11.30, 5402.11.60, 5402.19.30, 5402.19.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.45.10, 5402.45.90, 5402.51.00, or 5402.61.00, HTSUS, and that are products of Canada, Mexico, or Israel.

(2) *Exception for goods containing elastomeric yarns.* A textile or apparel good containing elastomeric yarns (excluding latex) in the component of the good that determines the tariff classification of the good will be considered an originating good only if such yarns are wholly formed in the territory of a Party. For purposes of this paragraph, ''wholly formed'' means that all the production processes and finishing operations, starting with the extrusion of all filaments, strips, films, or sheets, or the spinning of all fibers into yarn, or both, and ending with a finished yarn or plied yarn, took place in the territory of a Party.

(3) *Yarn, fabric, or fiber.* For purposes of paragraph (c) of this section, in the case of a textile or apparel good that is a yarn, fabric, or fiber, the term ''component of the good that determines the tariff classification of the good'' means all of the fibers in the good.

§ 10.3019 Fungible goods and materials.

(a) *General.* A person claiming that a fungible good or material is an originating good may base the claim either on the physical segregation of the fungible good or material or by using an inventory management method with respect to the fungible good or material. For purposes of this section, the term ''inventory management method'' means:

(1) Averaging;

(2) ''Last-in, first-out;''

(3) ''First-in, first-out;'' or

(4) Any other method that is recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by that country.

(b) *Duration of use.* A person selecting an inventory management method under paragraph (a) of this section for a particular fungible good or material must continue to use that method for that fungible good or material throughout the fiscal year of that person.

§ 10.3020 Accessories, spare parts, or tools.

(a) *General.* Accessories, spare parts, or tools that are delivered with a good and that form part of the good's standard accessories, spare parts, or tools will be treated as originating goods if the good is an originating good, and will be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification specified in General Note 34, HTSUS, provided that:

(1) The accessories, spare parts, or tools are classified with, and not invoiced separately from, the good, regardless of whether they are specified or separately identified in the invoice for the good; and

(2) The quantities and value of the accessories, spare parts, or tools are customary for the good.

(b) *Regional value content.* If the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good under § 10.3015.

§ 10.3021 Goods classifiable as goods put up in sets.

Notwithstanding the specific rules set forth in General Note 34, HTSUS, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not be considered to be originating goods unless:

(a) Each of the goods in the set is an originating good; or

(b) The total value of the non-originating goods in the set does not exceed;

(1) In the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

(2) In the case of a good other than a textile or apparel good, 15 percent of the adjusted value of the set.

§ 10.3022 Retail packaging materials and containers.

(a) *Effect on tariff shift rule.* Packaging materials and containers in which a good is packaged for retail sale, if classified with the good for which preferential tariff treatment under the CTPA is claimed, will be disregarded in determining whether all non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in General Note 34, HTSUS.

(b) *Effect on regional value content calculation.* If the good is subject to a regional value content requirement, the value of such packaging materials and containers will be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Example 1. Colombian Producer A of good C imports 100 non-originating blister packages to be used as retail packaging for good C. As provided in § 10.3016(a)(1), the value of the blister packages is their adjusted value, which in this case is $10. Good C has a regional value content requirement. The United States importer of good C decides to use the build-down method, RVC=((AV–VNM)/AV) x 100 (*see* § 10.3015(b)), in determining whether good C satisfies the regional value content requirement. In applying this method, the non-originating blister packages are taken into account as non-originating. As such, their $10 adjusted value is included in the VNM, value of non-originating materials, of good C.

Example 2. Same facts as in Example 1, except that the blister packages are originating. In this case, the adjusted value of the originating blister packages would *not* be included as part of the VNM of good C under the build-down method. However, if the U.S. importer had used the build-up method, RVC=(VOM/AV) x 100 (*see* § 10.3015(c)), the adjusted value of the blister packaging would be included as part of the VOM, value of originating materials.

§ 10.3023 Packing materials and containers for shipment.

(a) *Effect on tariff shift rule.* Packing materials and containers for shipment, as defined in § 10.3013(n), are to be disregarded in determining whether the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in General Note 34, HTSUS. Accordingly, such materials and containers are not required to undergo the applicable change in tariff classification even if they are non-originating.

(b) *Effect on regional value content calculation.* Packing materials and containers for shipment, as defined in § 10.3013(n), are to be disregarded in determining the regional value content of a good imported into the United States. Accordingly, in applying the build-down, build-up, or net cost method for determining the regional value content of a good imported into the United States, the value of such packing materials and containers for shipment (whether originating or non-originating) is disregarded and not included in AV, adjusted value, VNM, value of non-originating materials, VOM, value of originating materials, or NC, net cost of a good.

Example. Colombian producer A produces good C. Producer A ships good C to the United States in a shipping container that it purchased from Company B in Colombia. The shipping container is originating. The value of the shipping container determined under section § 10.3016(a)(2) is $3. Good C is subject to a regional value content requirement. The transaction value of good C is $100, which includes the $3 shipping container. The U.S. importer decides to use the build-up method, RVC=(VOM/AV) × 100 (*see* § 10.3015(c)), in determining whether good C satisfies the regional value content requirement. In determining the AV, adjusted value, of good C imported into the U.S., paragraph (b) of this section and the definition of AV require a $3 deduction for the value of the shipping container. Therefore, the AV is $97 ($100-$3). In addition, the value of the shipping container is disregarded and not included in the VOM, value of originating materials.

§ 10.3024 Indirect materials.

An indirect material, as defined in § 10.3013(h), will be considered to be an originating material without regard to where it is produced.

Example. Colombian Producer A produces good C using non-originating material B. Producer A imports non-originating rubber gloves for use by workers in the production of good C. Good C is subject to a tariff shift requirement. As provided in § 10.3014(b)(1) and General Note 34, each of the non-originating materials in good C must undergo the specified change in tariff classification in order for good C to be considered originating. Although non-originating material B must undergo the applicable tariff shift in order for good C to be considered originating, the rubber gloves do not because they are indirect materials and are considered originating without regard to where they are produced.

§ 10.3025 Transit and transshipment.

(a) *General.* A good that has undergone production necessary to qualify as an originating good under § 10.3014 will not be considered an originating good if, subsequent to that production, the good:

(1) Undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party; or

(2) Does not remain under the control of customs authorities in the territory of a non-Party.

(b) *Documentary evidence.* An importer making a claim that a good is originating may be required to demonstrate, to CBP's satisfaction, that the conditions and requirements set forth in paragraph (a) of this section were met. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

Origin Verifications and Determinations

§ 10.3026 Verification and justification of claim for preferential tariff treatment.

(a) *Verification.* A claim for preferential tariff treatment made under § 10.3003(b) or § 10.3011, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director is provided with insufficient information to verify or substantiate the claim, or the port director finds a pattern of conduct, indicating that an importer, exporter, or producer has provided false or unsupported declarations or certifications, or the exporter or producer fails to consent to a verification visit, the port director may deny the claim for preferential treatment. A verification of a claim for preferential tariff treatment under CTPA for goods imported into the United States may be conducted by means of one or more of the following:

(1) Written requests for information from the importer, exporter, or producer;

(2) Written questionnaires to the importer, exporter, or producer;

(3) Visits to the premises of the exporter or producer in the territory of Colombia, to review the records of the type referred to in § 10.3009(c)(1) or to observe the facilities used in the production of the good, in accordance with the framework that the Parties develop for conducting verifications; and

(4) Such other procedures to which the Parties may agree.

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, CBP will apply and accept the Generally Accepted Accounting Principles applicable in the country of production.

§ 10.3027 Special rule for verifications in Colombia of U.S. imports of textile and apparel goods.

(a) *Procedures to determine whether a claim of origin is accurate*—(1) *General.* For the purpose of determining that a claim of origin for a textile or apparel good is accurate, CBP may request that the Government of Colombia conduct a verification, regardless of whether a claim is made for preferential tariff treatment.

(2) *Actions during a verification.* While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action, which may include:

(i) Suspending the application of preferential tariff treatment to the textile or apparel good for which a claim for preferential tariff treatment has been made, if CBP determines there is insufficient information to support the claim;

(ii) Denying the application of preferential tariff treatment to the textile or apparel good for which a claim for preferential tariff treatment has been made that is the subject of a verification if CBP determines that a person has provided incorrect information to support the claim;

(iii) Detention of any textile or apparel good exported or produced by the person subject to the verification if CBP determines there is insufficient information to determine the country of origin of any such good; and

(iv) Denying entry to any textile or apparel good exported or produced by the person subject to the verification if CBP determines that the person has provided incorrect information as to the country of origin of any such good.

(3) *Actions following a verification.* On completion of a verification under this paragraph, CBP, if directed by the President, may take appropriate action which may include:

(i) Denying the application of preferential tariff treatment to the textile or apparel good for which a claim for preferential tariff treatment has been made that is the subject of a verification if CBP determines there is insufficient information, or that the person has provided incorrect information, to support the claim; and

(ii) Denying entry to any textile or apparel good exported or produced by the person subject to the verification if CBP determines there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

(b) *Procedures to determine compliance with applicable customs laws and regulations of the United States*—(1) *General.* For purposes of enabling CBP to determine that an exporter or producer is complying with applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods, CBP may request that the government of Colombia conduct a verification.

(2) *Actions during a verification.* While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action which may include:

(i) Suspending the application of preferential tariff treatment to any textile or apparel good exported or produced by the person subject to the verification if CBP determines there is insufficient information to support a claim for preferential tariff treatment with respect to any such good;

(ii) Denying the application of preferential tariff treatment to any textile or apparel good exported or produced by the person subject to the verification if CBP determines that the person has provided incorrect information to support a claim for preferential tariff treatment with respect to any such good;

(iii) Detention of any textile or apparel good exported or produced by the person subject to the verification if CBP determines there is insufficient information to determine the country of origin of any such good; and

(iv) Denying entry to any textile or apparel good exported or produced by the person subject to the verification if CBP determines that the person has provided incorrect information as to the country of origin of any such good.

(3) *Actions following a verification.* On completion of a verification under this paragraph, CBP, if directed by the President, may take appropriate action which may include:

(i) Denying the application of preferential tariff treatment to any textile or apparel good exported or produced by the person subject to the verification if CBP determines there is insufficient information, or that the person has provided incorrect information, to support a claim for preferential tariff treatment with respect to any such good; and

(ii) Denying entry to any textile or apparel good exported or produced by the person subject to the verification if CBP determines there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

(c) *Denial of permission to conduct a verification.* If a person does not consent to a verification under this section, CBP may deny preferential tariff treatment to the type of goods of the person that would have been the subject of the verification.

(d) *Assistance by U.S. officials in conducting a verification abroad.* U.S. officials may undertake or assist in a verification under this section by conducting visits in the territory of Colombia, along with the competent authorities of Colombia, to the premises of an exporter, producer, or any other person involved in the movement of textile or apparel goods from Colombia to the United States.

(e) *Continuation of appropriate action.* CBP may continue to take appropriate action under paragraph (a) or (b) of this section until it receives information sufficient to enable it to make the determination described in paragraphs (a) and (b) of this section.

§ 10.3028 Issuance of negative origin determinations.

If, as a result of an origin verification initiated under this subpart, CBP determines that a claim for preferential tariff treatment under this subpart should be denied, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 34, HTSUS, and in §§ 10.3013 through 10.3025, the legal basis for the determination.

§ 10.3029 Repeated false or unsupported preference claims.

Where verification or other information reveals a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the CTPA rules of origin set forth in General Note 34, HTSUS, CBP may suspend preferential tariff treatment under the CTPA to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until CBP determines that representations of that person are in conformity with General Note 34, HTSUS.

Penalties

§ 10.3030 General.

Except as otherwise provided in this subpart, all criminal, civil, or

administrative penalties which may be imposed on U.S. importers, exporters, and producers for violations of the customs and related laws and regulations will also apply to U.S. importers, exporters, and producers for violations of the laws and regulations relating to the CTPA.

§ 10.3031 Corrected claim or certification by importers.

An importer who makes a corrected claim under § 10.3003(c) will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for having made an incorrect claim or having submitted an incorrect certification, provided that the corrected claim is promptly and voluntarily made.

§ 10.3032 Corrected certification by U.S. exporters or producers.

Civil or administrative penalties provided for under 19 U.S.C. 1592 will not be imposed on an exporter or producer in the United States who promptly and voluntarily provides written notification pursuant to § 10.3009(b) with respect to the making of an incorrect certification.

§ 10.3033 Framework for correcting claims or certifications.

(a) *''Promptly and voluntarily'' defined.* Except as provided for in paragraph (b) of this section, for purposes of this subpart, the making of a corrected claim or certification by an importer or the providing of written notification of an incorrect certification by an exporter or producer in the United States will be deemed to have been done promptly and voluntarily if:

(1)(i) Done before the commencement of a formal investigation, within the meaning of § 162.74(g) of this chapter; or

(ii) Done before any of the events specified in § 162.74(i) of this chapter have occurred; or

(iii) Done within 30 days after the importer, exporter, or producer initially becomes aware that the claim or certification is incorrect; and

(2) Accompanied by a statement setting forth the information specified in paragraph (c) of this section; and

(3) In the case of a corrected claim or certification by an importer, accompanied or followed by a tender of any actual loss of duties and merchandise processing fees, if applicable, in accordance with paragraph (d) of this section.

(b) *Exception in cases involving fraud or subsequent incorrect claims*—(1) *Fraud.* Notwithstanding paragraph (a) of this section, a person who acted fraudulently in making an incorrect claim or certification may not make a voluntary correction of that claim or certification. For purposes of this paragraph, the term ''fraud'' will have the meaning set forth in paragraph (C)(3) of Appendix B to Part 171 of this chapter.

(2) *Subsequent incorrect claims.* An importer who makes one or more incorrect claims after becoming aware that a claim involving the same merchandise and circumstances is invalid may not make a voluntary correction of the subsequent claims pursuant to paragraph (a) of this section.

(c) *Statement.* For purposes of this subpart, each corrected claim or certification must be accompanied by a statement, submitted in writing or via an authorized electronic data interchange system, which:

(1) Identifies the class or kind of good to which the incorrect claim or certification relates;

(2) In the case of a corrected claim or certification by an importer, identifies each affected import transaction, including each port of importation and the approximate date of each importation;

(3) Specifies the nature of the incorrect statements or omissions regarding the claim or certification; and

(4) Sets forth, to the best of the person's knowledge, the true and accurate information or data which should have been covered by or provided in the claim or certification, and states that the person will provide any additional information or data which is unknown at the time of making the corrected claim or certification within 30 days or within any extension of that 30-day period as CBP may permit in order for the person to obtain the information or data.

(d) *Tender of actual loss of duties.* A U.S. importer who makes a corrected claim must tender any actual loss of duties at the time of making the corrected claim, or within 30 days thereafter, or within any extension of that 30-day period as CBP may allow in order for the importer to obtain the information or data necessary to calculate the duties owed.

Goods Returned After Repair or Alteration

§ 10.3034 Goods re-entered after repair or alteration in Colombia.

(a) *General.* This section sets forth the rules which apply for purposes of obtaining duty-free treatment on goods returned after repair or alteration in Colombia as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned after having been repaired or altered in Colombia, regardless of whether such repair or alteration could be performed in the territory of the Party from which the good was exported for repair or alteration, are eligible for duty-free treatment, provided that the requirements of this section are met. For purposes of this section, ''repairs or alterations'' means restoration, addition, renovation, re-dyeing, cleaning, re-sterilizing, or other treatment that does not destroy the essential characteristics of, or create a new or commercially different good from, the good exported from the United States.

(b) *Goods not eligible for duty-free treatment after repair or alteration.* The duty-free treatment referred to in paragraph (a) of this section will not apply to goods which, in their condition as exported from the United States to Colombia, are incomplete for their intended use and for which the processing operation performed in Colombia constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) *Documentation.* The provisions of paragraphs (a), (b), and (c) of § 10.8, relating to the documentary requirements for goods entered under subheading 9802.00.40 or 9802.00.50, HTSUS, will apply in connection with the entry of goods which are returned from Colombia after having been exported for repairs or alterations and which are claimed to be duty free.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 4. The general authority citation for Part 24 and specific authority for § 24.23 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a-58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

Section 24.23 also issued under 19 U.S.C. 3332;

* * * * *

■ 5. Section 24.23 is amended by adding paragraph (c)(13) to read as follows:

§ 24.23 Fees for processing merchandise.

* * * * *

(c) * * *

(13) The ad valorem fee, surcharge, and specific fees provided under paragraphs (b)(1) and (b)(2)(i) of this section will not apply to goods that qualify as originating goods under section 203 of the United States-Colombia Trade Promotion Agreement Implementation Act (*see also* General

Note 34, HTSUS that are entered, or withdrawn from warehouse for consumption, on or after May 15, 2012.

* * * * *

PART 162—INSPECTION, SEARCH, AND SEIZURE

■ 6. The authority citation for Part 162 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

■ 7. Section 162.0 is amended by revising the last sentence to read as follows:

§ 162.0 Scope.

* * * Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, the Dominican Republic-Central America-U.S. Free Trade Agreement, the U.S.-Morocco Free Trade Agreement, the U.S.-Peru Trade Promotion Agreement, the U.S.-Korea Free Trade Agreement, and the U.S-Colombia Trade Promotion Agreement are contained in Part 10, Subparts H, I, J, M, Q, R, and T of this chapter, respectively.

PART 163—RECORDKEEPING

■ 8. The authority citation for Part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

■ 9. Section 163.1 is amended by redesignating paragraph (a)(2)(xv) as (a)(2)(xvi) and adding a new paragraph (a)(2)(xv) to read as follows:

§ 163.1 Definitions.

* * * * *

(a) * * *

(2) * * *

(xv) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Colombia Trade Promotion Agreement (CTPA), including a CTPA importer's certification.

* * * * *

■ 10. The Appendix to Part 163 is amended by adding a new listing under section IV in numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List

* * * * *

IV. * * *

§ 10.3005 CTPA records that the importer may have in support of a CTPA claim for preferential tariff treatment, including an importer's certification.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 11. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 12. Section 178.2 is amended by adding new listings for ''§§ 10.3003 and 10.3004'' to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
*	*	*
§§ 10.3003 and 10.3004.	Claim for preferential tariff treatment under the US-Colombia Trade Promotion Agreement..	1651–0117
*	*	*

David V. Aguilar,

Deputy Commissioner, U.S. Customs and Border Protection.

Approved: September 20, 2012.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2012–23604 Filed 9–25–12; 8:45 am]

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COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

28 CFR Part 803

RIN 3225–AA09

Technical Amendments Due to Change of Agency Name

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Final rule.

SUMMARY: The Court Services and Offender Supervision Agency for the District of Columbia (''CSOSA'') is issuing a final rule to change all references to the District of Columbia Pretrial Services Agency (''PSA''), an independent federal agency within CSOSA, to reflect the change of the agency's name to the Pretrial Services Agency for the District of Columbia. Additionally, the description of PSA's seal is being amended. The regulations are also being amended to clearly state that either CSOSA's Director or PSA's Director or designee has the authority to affix the seal for that Director's respective agency. Finally, the regulations are being amended to clearly state that either CSOSA's or PSA's Director or designee may approve the use of the seal. All the changes made in this rule are strictly technical.

DATES: Effective September 26, 2012.

FOR FURTHER INFORMATION CONTACT: Rorey Smith, Assistant General Counsel, (202) 220–5797, or *rorey.smith@csosa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of Rule

The District of Columbia Home Rule Act (DC HRA), Public Law 93–198, granted the Council of District of Columbia (''Council'') with legislative authority over essentially local District matters. After forty-eight (48) months of the passage of the D.C. HRA, the Council had the authority to enact any act, resolution, or rule with respect to any provision of title 23 of the District of Columbia Code (relating to criminal procedure). With respect to any act codified in title 23 of the District of Columbia Code, such act takes effect at the end of the 60-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate unless, during such 60-day period, there has been enacted into law a joint resolution disapproving such act.

On June 3, 2011, the District of Columbia Criminal Code Amendments Act of 2010, D.C. Law 18–377, became effective and was codified at D.C. Official Code section 23–1301. Section 210 of this Act amended section 23–

1301 of the District of Columbia Code by striking the phrase ''District of Columbia Pretrial Services Agency'' wherever it appeared and inserting in its place the phrase ''Pretrial Services Agency for the District of Columbia.'' This change was made to be consistent with other federal agencies with a local mission focus in the District of Columbia whose names end with ''for the District of Columbia,'' such as CSOSA and the United States Attorney's Office. All the functions formerly carried out by CSOSA and PSA remain unchanged.

II. Administrative Procedure Act

Because this regulation merely implements a change in the name of a government agency and the description of the agency seal, it relates only to agency organization, procedure or practice; therefore, requirements for prior notice and public comment do not apply. 5 U.S.C. 553(b)(3)(A). The limited purpose and effect of this rule also justifies the finding for good cause, pursuant to 5 U.S.C. 553(d)(3), that the rule should take effect immediately.

III. Paperwork Reduction Act

This final rule does not include or modify a collection of information as defined in 44 U.S.C. 3502(3) of the Paperwork Reduction Act of 1995.

IV. Regulatory Flexibility Act

Because the agency is issuing this rule without a proposal and an opportunity for comments, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) does not apply. In any event, the technical amendments made by this regulation will not have a significant impact on a substantial number of small entities.

V. Congressional Review Act

This regulation is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties. It is therefore not subject to the Congressional Review Act pursuant to 5 U.S.C. 801 and 804(3)(C).

VI. Executive Order 12866

Following consultation with the Office of Management and Budget, a determination was made that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866.

VII. Federalism

This rule does not have Federalism implications under Executive Order 13132.

List of Subjects in 28 CFR Part 803

Probation and parole, Seals and insignia.

For the reasons set forth in the preamble, the Court Services and Offender Supervision Agency for the District of Columbia amends 28 CFR Part 803 as follows:

PART 803—[AMENDED]

■ 1. The authority citation for part 803 is revised as follows:

Authority: 5 U.S.C. 301, Pub L. 105–33, 111 Stat. 251, 712, D.C. Code 24–133.

■ 2. In § 803.1, revise paragraph (b) to read as follows:

§ 803.1 Description.

* * * * *

(b) The Agency seal of the Pretrial Services Agency for the District of Columbia (PSA or Agency) is described as follows: Two crossed flags, the United States flag on the left and the District of Columbia flag on the right superimposed upon the United States Capitol dome and two laurel branches both in gold which appear on a blue field bearing a white banner edged and lettered in gold with the inscription ''COMMUNITY, ACCOUNTABILITY, JUSTICE''; bearing the inscription ''PRETRIAL SERVICES AGENCY'' at the top, and ''DISTRICT OF COLUMBIA'' at the bottom surrounded by three gold stars on either side; letters and stars in gold. A reproduction of the Agency seal in black and white appears below.

■ 3. Revise § 803.2 to read as follows:

§ 803.2 Authority to affix seal.

* * * * *

The Director of CSOSA or PSA (as appropriate) and each Director's designees are authorized to affix their respective Agency seal (including replicas and reproductions) to appropriate documents, certifications, and other materials for all purposes authorized by this part.

■ 4. In § 803.3, revise paragraph (a) to read as follows:

§ 803.3 Use of the seal.

* * * * *

(a) Each Agency's seal is used by that Agency's staff for official Agency business as approved by the appropriate Director or designee in accordance with all subparts of 28 CFR 803.3.

* * * * *

Dated: September 18, 2012.

Nancy M. Ware,

Director, CSOSA.

[FR Doc. 2012–23589 Filed 9–25–12; 8:45 am]

BILLING CODE 3129–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0870]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, Chesapeake, 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 operation of the Norfolk Southern #7 Railroad Bridge across the Elizabeth River (Southern Branch), AIWW mile 5.8, at Chesapeake, VA. This deviation is necessary to facilitate replacing lift joints on the Norfolk Southern #7 Railroad Bridge. This temporary deviation will allow the drawbridge to remain in the closed-to-navigation position on specific dates and times.

DATES: This deviation is effective from 6 a.m. on October 9, 2012 until 8 p.m. on October 11, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0870 and are available online at *www.regulations.gov,* inserting USCG–2012–0870 in the ''Keywords'' box and then clicking ''Search''. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jim Rousseau, Bridge Management Specialist, Fifth Coast Guard District; telephone (757) 398–6557, email

James.L.Rousseau2@uscg.mil. If you have any questions on reviewing the docket, call Renee V. Wright, Program Manager, Docket Operations, 202–366–9826.

SUPPLEMENTARY INFORMATION: The Norfolk Southern Corporation, owner and operator of the single-leaf bascule Norfolk Southern #7 Railroad Bridge, mile 5.8, at Chesapeake, VA, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.997(d), to accommodate lift joint replacement.

Under the current operating schedule the bridge shall be left in the open position at all times and will only be lowered for the passage of trains and to perform periodic maintenance. The Norfolk Southern #7 Bridge, at AIWW mile 5.8, across the Elizabeth River (Southern Branch) in Chesapeake, VA, has a vertical clearance in the closed position to vessels of 7 feet above mean high water.

To facilitate lift joint replacement, the drawbridge will be maintained in the closed-to-navigation position from 6 a.m. to 8 p.m. on October 9, 2012 and again from 6 a.m. to 8 p.m. on October 11, 2012; at all other times the bridge will operate in accordance to its regular operating schedule. The bridge normally operates in the open position with several vessels transiting a week. Coordination with waterway users has been completed.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the opening restrictions of the draw span to minimize transiting delays caused by the temporary deviation. There are no alternate routes available but vessels may pass between 8 p.m. and 6 a.m. during the relevant time period. Mariners able to pass under the bridge in the closed position may do so at any time and the bridge is able to open for emergencies. Mariners are advised to proceed with caution.

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

Dated: September 17, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–23658 Filed 9–25–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0822]

RIN 1625–AA00

Safety Zone; Coast Guard Exercise, Hood Canal, Washington

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone around vessels involved in a Coast Guard Ready for Operations exercise in Hood Canal, WA that will take place between Oct 16, 2012 and Oct 18, 2012. A safety zone is necessary to ensure the safety of the maritime public during the exercise and will do so by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port (COTP) or his Designated Representative.

DATES: This rule is effective from 4:00 a.m. Oct 16, 2012 until 11:59 p.m. on Oct 18, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0822. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email ENS Nathaniel P. Clinger; Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone 206–217–6045, email *SectorPugetSoundWWM@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable, since the event requiring the establishment of this safety zone would be over before a comment period would end. The vessels involved in the Coast Guard Ready for Operations exercise have an important and urgent need to perform this training in order to be ready to protect U.S. persons, assets, and waters; it would be impracticable to publish an NPRM before the date of the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For reasons described above, publication of an NPRM would be impracticable. The vessels involved in this Coast Guard exercise have an important and urgent need to perform this training in order to be ready to protect U.S. persons, assets, and waters; and it is not possible to publish an NPRM before the date of the event.

B. Basis and Purpose

The Coast Guard will be conducting a Ready for Operations (RFO) exercise in the northern part of Hood Canal, WA. During the exercise, tactical vessels will be maneuvering through the Hood Canal from the entrance of Dabob Bay to Foul Weather Bluff. This exercise will include fast moving surface vessels, smoke machines, and pyrotechnics. Blank ammunition, flares and LA51 warning munitions will be used during the exercise. A safety zone is necessary to ensure the safety of the maritime public and vessels participating in the exercise by preventing collisions between exercising vessels and the maritime public, and by keeping the maritime public a safe distance away from potentially startling or disorienting smoke, bright flashes, and loud noises.

C. Discussion of the Rule

The temporary safety zone established by this rule will prohibit any person or vessel from entering or remaining

within 500 yards of any vessel involved in the Coast Guard Ready for Operations exercise. Members of the maritime public will be able to identify participating vessels as those flying the Coast Guard Ensign. The COTP may also be assisted in the enforcement of the zone by other federal, state, or local agencies.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard bases this finding on the fact that the safety zone will be in place for a limited period of time and vessel traffic will be able to transit through the zone from the COTP, Puget Sound or his Designated Representative.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities; the owners and operators of vessels intending to operate in the waters covered by the safety zone while it is in effect. The rule will not have a significant economic impact on a substantial number of small entities because the safety zone will be in place for a limited period of time and maritime traffic will still be able to transit around the safety zone. Maritime traffic may also request permission to transit through the zone from the COTP, Puget Sound or his Designated Representative.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T13–228 to read as follows:

§ 165.T13–228 Safety Zone; Coast Guard Exercise, Hood Canal, Washington.

(a) *Location.* The following area is a safety zone: All waters encompassed within 500 yards of any vessel that is involved in the Coast Guard Ready for Operations exercise while such vessel is transiting Hood Canal, WA between Foul Weather Bluff and the entrance to Dabob Bay. Vessels involved will be various sizes and can be identified as those flying the Coast Guard Ensign.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, Subpart C, no person may enter or remain in the safety zone created in this rule unless authorized by the Captain of the Port or his Designated Representative. See 33 CFR Part 165, Subpart C, for additional information and requirements. Vessel operators wishing to enter the zone during the enforcement period must request permission for entry by contacting the on-scene patrol commander on VHF channel 13 or 16, or the Sector Puget Sound Joint Harbor Operations Center at (206) 217–6001.

(c) *Enforcement Period.* This rule will be enforced on 4:00 a.m. Oct 16, 2012 until 11:59 p.m. on Oct. 18, 2012 unless canceled sooner by the Captain of the Port.

Dated: September 12, 2012.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2012–23653 Filed 9–25–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter IV

Final Waivers and Extensions of Project Periods; American Indian Vocational Rehabilitation Services Program

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.250C]

AGENCY: Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final waivers and extensions of project periods.

SUMMARY: The Secretary waives the regulations that generally limit project periods to 60 months and that restrict project period extensions involving the obligation of additional Federal funds. As a result, for the 60-month projects initially funded in fiscal year (FY) 2007 under the AIVRS program, the Secretary is extending the project periods until September 30, 2013.

DATES: This notice of final waivers and extensions of the project periods is effective September 26, 2012.

FOR FURTHER INFORMATION CONTACT: August Martin, U.S. Department of Education, 400 Maryland Avenue SW., room 5049, Potomac Center Plaza (PCP), Washington, DC 20202–2800. Telephone: (202) 245–7410.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 25, 2012, the Department published a notice in the **Federal Register** (77 FR 43560) inviting comments on the Department's proposal to make certain AIVRS grants effective for more than 60 months under the authority of Section 121(b)(3) of the Rehabilitation Act of 1973, as amended (the Act). The Secretary proposed to waive the requirements of 34 CFR 75.250, which generally limit project periods to 60 months, and of 34 CFR 75.261(c)(2), which restrict project period extensions involving the obligation of additional Federal funds. In that notice, the Secretary also proposed to extend the project period for the eight AIVRS grantees from October 1, 2012, through September 30, 2013. The proposed waivers and extensions would enable the eight AIVRS grantees to request, and continue to receive, Federal funds beyond the 60-month limitation set by 34 CFR 75.250.

There are no substantive differences between the notice of proposed waivers and extensions and this notice of final waivers and extensions.

Public Comment

In the July 25, 2012, notice for the AIVRS program, the Secretary invited comments on the effect these proposed waivers and extensions may have on the AIVRS program and on potential applicants for grant awards under any new AIVRS notice inviting applications, should there be one. We received comments from 13 commenters, 10 of which supported the Department's proposal to waive regulations at 34 CFR 75.250 and 34 CFR 75.261(c)(2) restricting project period extensions past 60 months and restricting extensions that require additional Federal funds and to extend the project period for 8 AIVRS grantees beyond September 30, 2012, so that they could continue to receive Federal funds from October 1, 2012, through September 30, 2013.

Generally, we do not address technical and other minor changes. In addition, we do not address general comments that raise concerns not directly related to the proposed waivers and extensions.

Analysis of Comments and Changes

Comment: Three commenters raised a concern that a decision not to run a competition in FY 2012 would preclude tribes that are interested in responding to a notice inviting applications from having the opportunity to apply for a grant and referred to the human capital and fiscal resources that were expended in anticipation of a new competition.

Discussion: The Department has proposed to extend the current AIVRS grantees in response to a recommendation made by the U.S. Government Accountability Office (GAO) in a report titled, ''Indian Issues: Federal Funding for Non-Federally Recognized Tribes,'' released on May 9, 2012, for the Department to review its interpretation of ''reservation'' used in determining eligibility under the AIVRS

program.[1] GAO raised concerns about the eligibility of State-recognized tribes that are not located on State reservations but rather are located on a defined and contiguous area of land where there is a concentration of tribal members and in which the tribe is providing structured activities and services as identified in their grant application. In order to respond to GAO's recommendation, we believe it is advisable to take time to review carefully the eligibility requirements for this program and to consider the Department's options. Therefore, in order to maintain the status quo while the Department undergoes this review, we have decided to maintain funding to existing AVIRS grantees and not to hold a new competition in FY 2012.

Human capital and fiscal resources that were expended in anticipation of a potential competition in FY 2012 have not been wasted. Application requirements for a FY 2013 competition are not likely to differ substantially from those in previous competitions. As such, application materials developed in anticipation of a potential competition in FY 2012 should be able to be used in the FY 2013 competition.

Changes: None.

Comment: Two commenters expressed concern about the potential effect of the proposed action on the next grant competition. One commenter asked whether the action to extend funding for current programs will decrease the number of grants available to be awarded when a competition is held. The other commenter asked whether this proposal to suspend the current practice of annual grant competitions will place more of our AIVRS programs in competition with each other.

Discussion: The AIVRS program is funded through a set-aside of the funds appropriated for the Vocational Rehabilitation (VR) State Grants program. Assuming a set-aside of at least 1.2 percent of the VR appropriation in FY 2013, the Department's action to extend these grants would not decrease the total number of grants awarded under the AIVRS program. At the end of FY 2013, 32 grants, including the 8 grants that would be extended under this notice, will conclude their current projects. Pending the availability of funds, the Department anticipates holding a grant competition in FY 2013 that would fund a minimum of 32 grants with project periods that would begin in FY 2014. The Department would have awarded the same total number of new grants over the two year period if it had conducted separate competitions in fiscal years 2012 and 2013. Thus, this action will not decrease the number of grants awarded nor should it result in increased competition among AIVRS programs.

Changes: None.

Comment: One commenter asked if tribes will be provided reasonable and adequate time and notice to fully and properly plan for and complete grant submissions.

Discussion: We anticipate that the FY 2013 competition will be announced in time to provide adequate notice and time for applicants to prepare and submit applications.

Changes: None.

Comment: One commenter asked whether applicants would have adequate and reasonable time to prepare a grant submission this year, if these proposed waivers and extensions do not move forward.

Discussion: The AIVRS program will not conduct a grant competition this year because we believe it is advisable to take time to carefully review the eligibility requirements for this program, in response to GAO's recommendation, before holding a new competition. The Department will, instead, waive the regulations that generally limit project periods to 60 months and restrict project period extensions involving the obligation of additional Federal funds. The Department plans to review requests for continuation awards from the eight grantees based on the 2007 notice inviting applications (NIA) and, where appropriate, extend the currently-funded projects through September 30, 2013.

Changes: None.

Background

The eight AIVRS grantees, selected based on the 2007 AIVRS NIA published on March 14, 2007 (72 FR 11851), provide vocational rehabilitation services to American Indians with disabilities who reside on or near Federal or State reservations as authorized by section 121 of the Rehabilitation Act of 1973, as amended (the Act) (29 U.S.C. 741).

The project period for the eight AIVRS grantees was scheduled to end September 30, 2012. However, section 121(b)(3) of the Act provides that the Department has the authority to make an AIVRS grant effective for more than 60 months, pursuant to prescribed regulations. Therefore, for these eight AIVRS grantees, the Secretary waives the requirements of 34 CFR 75.250 and 34 CFR 75.261(c)(2) which limit project periods to 60 months and restrict project period extensions that involve the obligation of additional Federal funds. The Secretary also extends the current project period for the eight AIVRS grantees funded in FY 2007 until September 30, 2013. Finally, the Department will not announce a new AIVRS competition or make new awards in FY 2012.

This action allows the eight AIVRS grantees to request continuation funding in FY 2012. Decisions regarding annual continuation awards will be based on the program narratives, budgets, budget narratives, and program performance reports submitted by these eight AIVRS grantees and on the requirements of 34 CFR 75.253. Any activities to be carried out during the year of continuation awards would have to be consistent with, or be a logical extension of, the scope, goals, and objectives of each grantee's application as approved following the 2007 AIVRS competition. The 2007 AIVRS NIA will continue to govern their projects during the extension year. These current AIVRS grantees may request continuation awards in FY 2012 for project periods through FY 2013.

Waiver of Delayed Effective Date

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). We have not made any substantive changes to the proposal. The Secretary has therefore determined to waive the delayed effective date to ensure timely continuation grants to the entities affected.

Regulatory Flexibility Act Certification

The Secretary certifies that this final extension of the project period and waiver will not have a significant economic impact on a substantial number of small entities. The only entities that will be affected are the current grantees and any other potential applicants.

Paperwork Reduction Act of 1995

The final waivers and extensions of project periods do not contain any information collection requirements.

Intergovernmental Review

This program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print,

[1] The GAO report is available at *www.gao.gov/products/GAO–12–348.*

audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document

The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: September 20, 2012.

Melody Musgrove,

Director of Special Education Programs, delegated the authority to perform the functions and duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2012–23599 Filed 9–25–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 60

RIN 2900–AN79

Fisher House and Other Temporary Lodging

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule amends Department of Veterans Affairs (VA) regulations concerning Fisher Houses and other temporary lodging furnished by VA while a veteran is experiencing an episode of care at a VA health care facility. This final rule better describes the application process for this lodging and clarifies the distinctions between Fisher Houses and other temporary lodging provided by VA. This final rule generally reflects current VA policy and practice, and conforms to industry standards and expectations.

DATES: This final rule is effective October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Deborah Amdur, Chief Consultant, Care Management and Social Work Service (10P4C), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–6780. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This document adopts as a final rule without substantive change a proposed rule amending VA regulations. On March 16, 2012, VA published in the **Federal Register** (77 FR 15650) a proposal to amend its regulations concerning Fisher Houses and other temporary lodging furnished by VA while a veteran is experiencing an episode of care at a VA health care facility. Under 38 U.S.C. 1708, VA may furnish certain persons with temporary lodging in a Fisher House or other appropriate facility in connection with the examination, treatment, or care of a veteran. VA implements its authority under section 1708 in 38 CFR part 60. This authority to provide temporary lodging assists VA in providing appropriate treatment and care to veterans, because individuals receiving such treatment or care often respond better when they are accompanied by relatives, close friends, or caregivers.

Interested persons were invited to submit comments to the proposed rule on or before May 15, 2012, and we received no comments. Therefore, we make no changes based on comments. However, we make minor changes from the proposed rule in certain places in §§ 60.15 and 60.20, because the phrases ''VA health care facility,'' ''VA medical center,'' and ''VA medical facility'' were inadvertently used interchangeably with regards to: Where an application for temporary lodging may be obtained and where a completed application must be returned (§ 60.15(a)); the location of non-utilized beds in VA facilities that may serve as temporary lodging (§ 60.15(b)(3) and § 60.20(d)); the type of VA facility whose Director may determine whether hotels or motels are appropriate temporary lodging (§ 60.15(b)(4)); and where a denied application may be referred (§ 60.15(b)(7)). The intended usage was to refer only to a ''VA health care facility'' throughout the proposed rule, because this phrase broadly encompasses all VA facilities that are under the jurisdiction of the Veterans Health Administration and VA. By contrast, a ''VA medical center'' is a specific type of ''VA health care facility'' that distinctly provides, among other things, 24-hour inpatient care. VA has never limited, and it was not the intent of the proposed rule to limit criteria for temporary lodging, to only be considered in the context of a ''VA medical center.''

Use of the broader phrase ''VA health care facility'' in this final rule reflects current and longstanding VA practice, and the proposed rule emphasized that it would generally reflect current VA practice. See 77 FR 15650, 15652–15653. Additionally, use of the phrase ''VA health care facility'' is consistent with 38 CFR part 60 prior to this revision, versus the phrase ''VA medical facility.'' The public therefore should be familiar with the phrase ''VA health care facility,'' as well as the intent of the proposed rule. Indeed, the fact that we received no comments on the inadvertent usage of the phrases ''VA medical center'' and ''VA medical facility'' in the proposed rule indicates that the public did not understand these phrases to propose new limitations regarding temporary lodging provided by VA.

Changes in this final rule to consistently use ''VA health care facility'' additionally do not broaden substantive criteria for temporary lodging from the proposed rule, because the proposed rule accurately used the phrase ''VA health care facility'' when describing substantive criteria to the public. Therefore, consistent use of the broader phrase ''VA health care facility'' in the final rule is not a substantive change from the proposed rule that requires an additional notice and comment period. For instance, the proposed rule clearly stated in § 60.2 that Fisher Houses and other temporary lodging may be located at or near a ''VA health care facility.'' See § 60.2 as proposed, and unchanged by this final rule, for the definitions of ''Fisher House'' and ''Other temporary lodging,'' which base location of temporary lodging at or near a ''VA health care facility.'' The substantive criteria in proposed § 60.2, related to where temporary lodging may be located, correctly stated that temporary lodging may be located at or near a VA health care setting that is broader than a ''VA medical center.'' Proposed § 60.15(a), however, incorrectly stated that applications for temporary lodging could be obtained from and returned to only ''VA medical center[s].'' Proposed § 60.15(a) intended to alert the public that applications for temporary lodging can be obtained from and returned to those places where temporary lodging may be located. Therefore, the final rule must accurately indicate that applications for temporary lodging may be obtained from and returned to a ''VA health care facility,'' and not only obtained from and returned to a ''VA medical center.'' See § 60.15(a) as

revised by this rulemaking, versus § 60.15(a) as proposed. Accurately stating in the final rule that an application for temporary lodging may be obtained from and returned to a ''VA health care facility'' versus a ''VA medical center'' does not affect the location of temporary lodging, and does not affect any other substantive criteria such as eligibility for temporary lodging or access to temporary lodging. The change in this final rule in § 60.15(a) to use the phrase ''VA health care facility,'' therefore, is not substantive but rather merely standardizes the use of the correct and intended phrase, where otherwise multiple phrases will be confusing.

As another example, the proposed rule clearly stated in § 60.15(b)(5) that ''the person responsible for coordinating the Fisher House and other temporary lodging program(s) at the VA health care facility of jurisdiction is responsible for making decisions to grant temporary lodging.'' The substantive criteria in proposed § 60.15(b)(5), related to VA staff that decide whether to grant temporary lodging, correctly stated that such staff may work in a VA health care setting that is broader than a ''VA medical center.'' Proposed § 60.15(b)(7), however, incorrectly stated that if temporary lodging is denied, then the application would be referred to VA staff only ''at the VA medical center of jurisdiction to determine if other arrangements can be made.'' Proposed § 60.15(b)(7) intended to alert the public that if an application is denied, the application will be referred back to the setting where the original decision was made to determine if other lodging options are available. Therefore, the final rule must indicate that if an application for temporary lodging is denied, that VA will refer the application to a ''VA health care facility of jurisdiction'' to determine other options, and not limit the referral of the application to only a ''VA medical center of jurisdiction.'' See § 60.15(b)(7) as revised by this rulemaking, versus § 60.15(b)(7) as proposed. Accurately stating in the final rule that a denied application for temporary lodging is referred back to a ''VA health care facility'' versus a ''VA medical center'' does not affect the availability of other lodging options when temporary lodging is denied, and does not affect any other substantive criteria such as eligibility for temporary lodging or access to temporary lodging. The change in this final rule in § 60.15(b)(7) to use the phrase ''VA health care facility,'' therefore, is not substantive but rather merely standardizes the use of the correct and intended phrase, where otherwise multiple phrases will be confusing.

All other changes to use the broader phrase ''VA health care facility'' in §§ 60.15 and 60.20 are similarly not substantive, because they merely standardize the use of the correct and intended phrase, where otherwise multiple phrases will be confusing. We amend the language of the proposed rule to remove all mention of a ''VA medical center'' or ''VA medical facility,'' and replace those phrases with ''VA health care facility'' in this final rule.

Therefore, based on the rationale set forth in the proposed rule and above, VA is adopting the proposed rule as a final rule without substantive change.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

Although this action contains provisions constituting collections of information at 38 CFR 60.15, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or revised collections of information are associated with this final rule. The information collection requirements for § 60.15 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0630.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and will not directly affect small entities. Any impact on small entities involved in the lodging industry would be indirect and insignificant. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analyses requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) classifies a ''significant regulatory action,'' requiring review by OMB, unless OMB waives such review as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for the programs affected by this document are 64.007, Blind

Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

List of Subjects in 38 CFR Part 60

Health care, Housing, Reporting and recordkeeping requirements, Travel, Veterans.

Approved: September 20, 2012.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

For the reasons stated in the preamble, VA is revising 38 CFR part 60 as follows:

PART 60—FISHER HOUSES AND OTHER TEMPORARY LODGING

Sec.
60.1 Purpose and scope.
60.2 Definitions.
60.3 Other donated temporary lodging.
60.10 Eligibility criteria for Fisher House or other temporary lodging.
60.15 Application process.
60.20 Duration of Fisher House or other temporary lodging.

Authority: 38 U.S.C. 501, 1708.

§ 60.1 Purpose and scope.

This part applies to Fisher House and other temporary lodging furnished by VA while a veteran is experiencing an episode of care at a VA health care facility.

(Authority: 38 U.S.C. 501, 1708)

§ 60.2 Definitions.

For the purposes of this part:

Accompanying individual means an individual seeking Fisher House or other temporary lodging, who provides familial support or the equivalent of familial support, to a veteran while the veteran is experiencing an episode of care. This term is defined broadly to include relatives, close friends, and caregivers.

Compensation and pension examination means an examination requested by VA's Veterans Benefits Administration to be conducted at a VA health care facility for the purpose of evaluating a veteran's claim.

Episode of care means a course of outpatient treatment, or a period of hospitalization, during which a veteran receives health care under 38 U.S.C. chapter 17, or 38 U.S.C. 8111 or 8153. Examples of episodes of care include (but are not limited to) the following:

(1) An appointment at a VA health care facility to receive health care or a compensation and pension examination.

(2) Extended outpatient treatment, such as treatment associated with organ transplant, chemotherapy, or radiation.

(3) Hospitalization for a critical injury or illness; where death is imminent; or where a veteran is unable to make medical decisions for him/herself and the accompanying individual is authorized to make such decisions on the veteran's behalf.

Fisher House means a housing facility that is located at or near a VA health care facility and was constructed by and donated to VA by the Fisher House Foundation (formerly the Zachary and Elizabeth M. Fisher Armed Services Foundation), or a facility that is treated as if it were Fisher House lodging under § 60.3.

Other temporary lodging includes:

(1) Lodging at a temporary lodging facility, other than a Fisher House, located at a VA health care facility (generally referred to as a ''hoptel'');

(2) A hotel or motel;

(3) Non-utilized beds at a VA health care facility designated as lodging beds; and

(4) Other donated lodging to be used on a temporary basis in accordance with 38 U.S.C. 1708.

VA means the Department of Veterans Affairs.

(Authority: 38 U.S.C. 501, 1708)

§ 60.3 Other donated temporary lodging.

Whenever VA receives, from a source other than the Fisher House Foundation, an undesignated donation of lodging to be used on a temporary basis, the lodging will be designated as if it were Fisher House lodging or be treated as other temporary lodging based upon the types of lodging available in the area. If VA receives a gift that specifies the terms of the lodging provided, VA will use the lodging provided in the manner specified by the donor.

(Authority: 38 U.S.C. 501, 1708, 8103, 8104)

§ 60.10 Eligibility criteria for Fisher House or other temporary lodging.

(a) *General.* While a veteran is undergoing an episode of care, VA may provide either Fisher House or other temporary lodging, as appropriate, if the application meets the requirements of this part 60. These are the only types of lodging provided by VA under this part. Note: Lodging provided for under this part will not be used by a person participating in a VA residential treatment program, or as a substitute for participation in such a program.

(b) *Eligible persons.* (1) *Fisher House.* VA may provide Fisher House lodging to accompanying individual(s) and, in limited circumstances of immediate need and no alternative temporary lodging, to a veteran with one or more accompanying individual(s). Fisher House lodging will not be used to lodge unaccompanied veterans or individuals in need of transitional or permanent housing. Note: VA does not impose a general limit on the number of persons who may accompany a veteran, but VA may in specific cases provide lodging to only a specific number of persons due to space or resource limitations.

(2) *Other temporary lodging.* VA may provide other temporary lodging to a veteran or to a veteran and his or her accompanying individual(s). Accompanying individuals may not stay in other temporary lodging unless the veteran is also staying in temporary lodging. **Note:** VA does not impose a general limit on the number of persons who may accompany a veteran, but VA may in specific cases provide lodging to only a specific number of persons due to space or resource limitations.

(c) *Condition of the veteran.* Fisher House or other temporary lodging will not be provided to a veteran unless the VA official reviewing the application determines, based on the application and on any necessary clinical information, that the veteran is:

(1) Medically stable and capable of self-care; or

(2) Accompanied by an individual who is able to provide all necessary care.

(d) *Travel time/distance requirement.* Fisher House or other temporary lodging may be provided only if the applicant seeking lodging must travel at least 50 miles, or for 2 hours, from his or her home to the VA health care facility. VA may waive these requirements based on exceptional circumstances, such as when the physical condition of an accompanying individual and/or the veteran, inclement weather, road conditions, or the mode of transportation, make it difficult or dangerous to travel to or return from the VA health care facility without an overnight stay.

(e) *Special authority for organ transplant cases.* Notwithstanding any other provision of this part, VA may provide Fisher House or other temporary lodging for individuals who must be present on site for evaluation, donation, and care related to their status as an organ donor for a veteran. VA may also provide Fisher House or other temporary lodging for the donor's

accompanying individuals at all phases of the transplant process.

(Authority: 38 U.S.C. 501, 1708, 1710(a))

§ 60.15 Application process.

(a) *Obtaining and submitting the application.* VA Form 10–0408A is the application for Fisher House and other temporary lodging. Applications may be submitted by mail, telephone, facsimile, in person, or electronically. VA Form 10–0408A is available from any VA health care facility or may be obtained online at *http://vaww4.va.gov/vaforms/medical/pdf/vha-10–0408A-fill.pdf.* The completed application must be submitted as follows:

(1) For Fisher House lodging, to the Fisher House Manager at the VA health care facility of jurisdiction.

(2) For other temporary lodging, to the temporary lodging program coordinator at the VA health care facility of jurisdiction.

(b) *Processing applications.* (1) Applications are generally processed in the order that they are received by VA, and temporary lodging is then granted on a first come first serve basis; however, in extraordinary circumstances, such as imminent death, critical injury, or organ donation applications may be processed out of order.

(2) Temporary lodging is granted on a space-available basis, with some consideration given to the compatibility of the applicant(s) and the room(s) available. For example, although VA may require an applicant to share a room with another veteran's accompanying individual, VA would not do so if the persons affected are not the same gender.

(3) Temporary lodging at a VA health care facility, such as non-utilized beds in a VA health care facility, may be made available only if not barred by law and if the Director of the VA health care facility determines that such action would not have a negative impact on patient care. Non-utilized beds provided to accompanying individuals must be reassigned to VA patients when necessary.

(4) The Director of the VA health care facility of jurisdiction will determine whether local funding is sufficient to allow the use of temporary lodging in hotels and motels.

(5) Subject to all criteria provided in this part, the person responsible for coordinating the Fisher House and other temporary lodging program(s) at the VA health care facility of jurisdiction is responsible for making decisions to grant temporary lodging. These decisions are considered to be final VA decisions concerning individual medical treatment plans and the scheduling and use of VA lodging facilities, and they are not appealable to the Board of Veterans' Appeals.

(6) If VA denies an application for one type of lodging, such as at a Fisher House, the application will be considered for other temporary lodging and vice versa, if the applicant is eligible.

(7) If VA denies the application for all types of temporary lodging, VA will refer the application to a VA social worker at the VA health care facility of jurisdiction to determine if other arrangements can be made.

(c) Costs for Fisher House and other temporary lodging under this part are borne by VA.

(Authority: 38 U.S.C. 501, 1708)

(The Office of Management and Budget has approved the information collection requirements in this section under OMB control number 2900–0630)

§ 60.20 Duration of Fisher House or other temporary lodging.

Fisher House or other temporary lodging may be awarded for the following periods:

(a) While the veteran is undergoing an episode of care.

(b) While the veteran is hospitalized, if the veteran is admitted to a VA health care facility while undergoing an outpatient episode of care for which temporary lodging was already provided.

(c) As extended by the appropriate VA clinician or social worker based on an emergency situation or unforeseen circumstances.

(d) For an indefinite period for accompanying individuals who are visiting veterans hospitalized for an indefinite period, provided that the accompanying individual is not using a VA health care facility bed. Whether a veteran is hospitalized for an indefinite period will be based upon the treatment or rehabilitation needs of the veteran as determined by the veteran's health care team.

(e) Temporary lodging may be furnished the night before the day of a scheduled appointment if, the veteran leaving home after 8:00 a.m., would be unable to arrive at the VA health care facility by the time of the scheduled appointment.

(f) Temporary lodging may be furnished the night of the scheduled appointment if, after the appointment, the veteran would be unable to return home before 7:00 p.m. When a veteran is undergoing outpatient treatment or procedures the veteran and accompanying individual(s) may be furnished temporary lodging for the duration of the episode of care subject to limitations described in this section.

(Authority: 38 U.S.C. 501, 1708)

[FR Doc. 2012–23730 Filed 9–25–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0617; FRL–9731–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adhesives and Sealants Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to Pennsylvania's State Implementation Plan (SIP). The SIP revision was submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP) in order to include in the SIP amendments to relating to control of emissions of volatile organic compounds (VOCs) from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents. The SIP revision also includes amendments to the definitions in the general provisions in 25 *Pa. Code.* EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on October 26, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2011–0617. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality

Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On August 26, 2011, EPA published a notice of proposed rulemaking (NPR) which proposed approval of Pennsylvania's adhesives and sealants regulations in order to control emissions of VOCs from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents (76 FR 53369, August 26, 2011). The formal SIP revision was submitted by the Commonwealth of Pennsylvania through PADEP on January 12, 2011.

II. Summary of SIP Revision

Pennsylvania's SIP submission contains amendments to *25 Pa. Code* Chapters 121, 129, and 130 relating to general provisions, standards for sources, and standards for products. The SIP revision includes amendments to the existing regulation in *25 Pa. Code* section 129.51, general provisions for VOC sources, and adds new provisions under *25 Pa. Code* sections 129.77 and 130.701 through 130.708, relating to control of emissions from the use or application of adhesives, sealants, primers and solvents and for the control of emissions of VOCs from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents. The SIP revision also includes amendments to *25 Pa. Code* section 121.1, which contains definitions applicable to *25 Pa. Code* sections 129.77 and 130.701 through 130.708.

The SIP revision is based on the Ozone Transport Commission (OTC) model rule, ''OTC Model Rule For Adhesives and Sealants,'' dated 2006, which was based on the 1998 California Air Resources Board (CARB) reasonably available control technology (RACT) determination which applied to both the manufacture and use of adhesives, sealants, adhesive primers, or sealant primers, in both industrial and manufacturing facilities and in the field. California Air Districts used this determination to develop regulations for this category. EPA addressed this source category with a Control Techniques Guideline (CTG) document ''Control Techniques Guidelines for Miscellaneous Industrial Adhesives, EPA–453/R–08–005'' in September 2008 (Miscellaneous Industrial Adhesive CTG).

EPA has determined that the SIP revision contains the required elements for a federally enforceable rule: Emission limitations, compliance procedures and test methods, compliance dates, and record keeping provisions. In comparison to the CTG, the OTC model rule and *25 Pa. Code* section 129.77 are applicable to all stationary sources including those applications that occur outside of the factory setting in the field. The OTC model rule and *25 Pa. Code* sections 129.77 and 130.701 through 130.708 also regulate the VOC content and vapor pressure of surface-preparation and clean-up solvents for which the CTG did not make recommendations other than including work practices. The rationale for EPA's proposed action is explained in the NPR and will not be restated here. On September 26, 2011, EPA received one comment letter on the August 26, 2011 NPR. The complete comment letter submitted by the Graphic Arts Coalition (hereafter referred to as the Commenter) may be found in the docket (EPA–R03–OAR–2011–0617) for today's final action. A summary of the comments and EPA's responses are provided in Section III of this document.

III. Summary of Public Comments and EPA Responses

Comment: The Commenter requests that EPA not approve the SIP amendment until PADEP clearly exempts graphic arts operations from the rule. The Commenter believes that adhesives used in printing operations were not considered in PADEP's rulemaking and were not intended to be covered by the revised regulation or by the OTC or EPA. The Commenter believes that all adhesives used in the printing process operation, not only adhesives applied at stations that are physically connected to a printing line, should be excluded from the rule because these adhesives will be captured/controlled under rules applicable to lithographic operations being developed by PADEP.

Response: Pennsylvania's regulation for adhesives and sealants clearly addresses the adhesives and adhesive application activities regulated. In *25 Pa. Code* section 129.77 at Tables V and VI, the Commonwealth clearly specified the adhesives for which a VOC limit is set and *25 Pa. Code* section 129.77(a) clearly states that the limits apply in Tables V and VI unless excluded by *25 Pa. Code* section 129.77(k). Also, the additional terms in *25 Pa. Code* section 121.1 define each of the adhesive categories found in Tables V and VI. Thus, we believe the Pennsylvania regulations are clear that the adhesives used in printing operations were considered and that the state intended to cover those adhesives.

EPA addressed a portion of the adhesives and adhesive primers category in the Miscellaneous Industrial Adhesive CTG. EPA's Miscellaneous Industrial Adhesive CTG provides state and local air pollution control authorities information that may assist them in determining RACT for VOCs from miscellaneous industrial adhesive application processes. In developing this Miscellaneous Industrial Adhesive CTG, EPA, among other things, evaluated the sources of VOC emissions from miscellaneous industrial adhesives application processes and the available control approaches for addressing these emissions, including the costs of such approaches. Based on available information and data, EPA provided recommendations for RACT for miscellaneous industrial adhesives. States can use the recommendations in the Miscellaneous Industrial Adhesive CTG to inform their own determination as to what constitutes RACT for VOCs for miscellaneous industrial adhesive application processes in their particular nonattainment areas. The Miscellaneous Industrial Adhesive CTG does not impose any legally binding requirements on any entity nor are States required to adopt the approach that EPA sets forth in a CTG. It provides only recommendations for state and local air pollution control agencies to consider in determining RACT. State and local pollution control agencies are free to implement other technically-sound approaches that are consistent with the CAA and EPA's implementing regulations or are more stringent. Thus, whether or not the CTG expressly addressed the adhesives at issue here is not relevant for determining whether Pennsylvania's rule addressing those adhesives could be approved as part of the SIP.

Section 110(k) of the CAA provides that EPA shall approve a SIP revision submittal if it meets all of the applicable requirements of the CAA. The primary CAA requirement for the adhesives and sealants rule is that Pennsylvania set RACT for the Miscellaneous Industrial Adhesive CTG category. For the reasons outlined in the NPR, EPA believes that Pennsylvania has fulfilled this requirement (76 FR 53369). To the extent that Pennsylvania's rule goes beyond the recommendation of the Miscellaneous Industrial Adhesive CTG, it does not prohibit EPA from approving this rulemaking action. The OTC developed a model rule as part of a regional effort to attain and maintain the eight-hour ozone standard and reduce eight-hour ozone levels. States opting to

promulgate rules based on this model rule utilize state-specific administrative requirements and procedures. Similar to CTGs, the OTC model rules are merely recommendations and are not required by the Commonwealth for regulation purposes. However, Pennsylvania's adopted *25 Pa. Code* Chapters 121, 129, and 130 are based on the OTC model rule. The Commenter also suggests that these adhesives would be better addressed in a separate rule on which the Commonwealth is currently working. If the Commonwealth determines that the adhesives should be addressed in a different rule, it can request that the SIP be revised. However, the fact that the Commonwealth may choose at some future point to regulate the adhesives under a separate rule is not a basis for disapproving the current rule.

IV. Final Action

EPA is approving the Pennsylvania SIP revision which includes amendments to *25 Pa. Code* section 121.1 ''Definitions'' and section 129.51(a) ''Equivalency.'' EPA is also approving the Pennsylvania SIP revisions adding *25 Pa. Code* section 129.77 ''Control of emissions from the use or application of adhesives, sealants, primers, and solvents'' and *25 Pa. Code* sections 130.701–130.708 ''Adhesives, Sealants, Primers, and Solvents General Provisions.'' EPA has determined that *25 Pa. Code* sections 129.77 and 130.701 through 130.708 meet the requirement for RACT for the Miscellaneous Industrial Adhesive CTG. EPA has determined that the regulations will result in the reduction of VOC emissions from the affected sources and meet the applicable requirements of the CAA and applicable EPA regulations, guidance, and policy and can therefore be approved.

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to pertaining to Pennsylvania's control of VOCs from adhesives and sealants may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. Section 52.2020, in paragraph (c)(1), is amended by:

■ a. Revising the entries for sections 121.1 and 129.51;

■ b. Adding an entry for section 129.77; and

■ c. Adding a new table entry under ''Chapter 130—Standards for Products'' titled ''Subchapter D—Adhesives, Sealants, Primers and Solvents''; and under the new table heading, adding entries for 130.701 through 130.708 in numerical order.

The additions and revisions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(1) * * *

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25—Environmental Protection Article III—Air Resources Chapter 121—General Provisions				
Section 121.1	Definitions	12/25/10	9/26/12 *[Insert page number where the document begins]*.	Amends and adds definitions.
*	*	*	*	*
Chapter 129—Standards for Sources				
*	*	*	*	*
Sources of VOCs				
Section 129.51	General	12/25/10	9/26/12 *[Insert page number where the document begins]*.	Amends section 129.51(a).
*	*	*	*	*
Section 129.77	Control of emissions from the use or application of adhesives, sealants, primers and solvents.	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
*	*	*	*	*
Chapter 130—Standards for Products				
*	*	*	*	*
Subchapter D—Adhesives, Sealants, Primers and Solvents				
Section 130.701	Applicability	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
Section 130.702	Emission standards	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
Section 130.703	Exemptions and exceptions	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
Section 130.704	Recordkeeping requirements.	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
Section 130.705	Compliance procedures and test methods.	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
Section 130.706	Container labeling	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
Section 130.707	Product dating	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
Section 130.708	Sell-through of products	12/25/10	9/26/12 *[Insert page number where the document begins]*.	New section is added.
*	*	*	*	*

* * * * *

[FR Doc. 2012–23568 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0468; FRL–9731–7]

Approval and Promulgation of Air Quality Implementation Plans; Maryland-Revision for the Control of Volatile Organic Compounds Emissions From Vehicle Refinishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland pertaining to ''Control of Volatile Organic Compounds Emissions from Vehicle Refinishing.'' The SIP revision establishes new volatile organic compounds (VOC) content limits and standards for coating and cleaning solvents used in vehicle refinishing. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on October 26, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2012–0468. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

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

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

I. Background

On May 8, 2012, the Maryland Department of the Environment (MDE) submitted a formal SIP revision (#12–04) to EPA pertaining to regulation COMAR 26.11.19.23 ''Control of Volatile Organic Compounds Emissions from Vehicle Refinishing.'' The SIP revision establishes new volatile organic compounds (VOC) content limits for coating and cleaning solvents used in vehicle refinishing and standards for coating application, work practices, monitoring, and recordkeeping. On July 10, 2012 (77 FR 40550), EPA published a notice of proposed rulemaking (NPR) proposing approval of Maryland's revisions to COMAR 26.11.19.23 ''Control of Volatile Organic Compounds Emissions from Vehicle Refinishing'' as adopted by the State of Maryland on March 26, 2012. The compliance date of the adopted regulation COMAR 26.11.19.23 is July 1, 2013.

II. Summary of SIP Revision

The SIP revision establishes VOC content limits for automotive coatings and cleaning solvents used in vehicle refinishing and standards for coating application, work practices, monitoring, and recordkeeping. Maryland's revisions to COMAR 26.11.19.23 include establishing VOC content limits for 11 categories of automotive coatings and two categories of cleaning solvents which are used in the preparation, application, and drying phases of vehicle refinishing. All affected sources must comply with provisions of this regulation by July 1, 2013. This SIP revision will achieve emission reductions of VOC throughout the State of Maryland.

Maryland's revisions to COMAR 26.11.19.23 are based on the 2009 ''Model Rule for Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations'' (MVMERR) developed in conjunction with member states of the Ozone Transport Commission (OTC). The MVMERR and the adopted regulation COMAR 26.11.19.23 comply with EPA's requirements set forth in 40 CFR Part 59, subpart B ''National Volatile Organic Compound Emissions Standards for Automobile Refinish Coatings'' and 40 CFR part 63 subpart HHHHHH ''National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.'' Specific information concerning revisions to COMAR 26.11.19.23 and the rationale for EPA's proposed action are explained in the NPR and the Technical Support Document for this action, and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving Maryland's revisions to regulation COMAR 26.11.19.23 ''Control of Volatile Organic Compounds Emissions from Vehicle Refinishing'' adopted by MDE on March 26, 2012, as a revision to the Maryland SIP. The compliance date for this regulation is July 1, 2013.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, which approves revisions to regulation COMAR 26.11.19.23, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 30, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.19.23 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

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

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
*	*	*	*	*
26.11.19 Volatile Organic Compounds From Specific Processes				
*	*	*	*	*
26.11.19.23	Control of VOC Emissions from Vehicle Refinishing.	4/16/12	9/26/12 *[Insert page number where the document begins]*.	Entire regulation revised.
*	*	*	*	*

* * * * *

[FR Doc. 2012–23572 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0081; FRL–9728–2]

Approval and Promulgation of Implementation Plans; Mississippi: New Source Review-Prevention of Significant Deterioration; Fine Particulate Matter ($PM_{2.5}$)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve changes to the Mississippi State Implementation Plan (SIP), submitted by the Mississippi Department of Environmental Quality (MDEQ) Division of Air Pollution Control to EPA on May 12, 2011. The May 12, 2011, SIP revision modifies Mississippi's New Source Review (NSR) Prevention of Significant Deterioration (PSD) permitting regulations to incorporate by reference, into the Mississippi SIP, federal NSR PSD requirements for the fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) as promulgated in EPA's 2008 NSR $PM_{2.5}$ Implementation Rule and the 2010 $PM_{2.5}$ PSD Increment, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) Rule. EPA is approving portions of Mississippi's May 12, 2011, SIP revision because they are consistent with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

DATES: *Effective Date:* This rule will be effective October 26, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0081. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Mississippi SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR, contact Ms.

Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9214; email address: *adams.yolanda@epa.gov.* For information regarding the $PM_{2.5}$ NAAQS, contact Mr. Joel Huey, Regulatory Development Section, at the same address above. Mr. Huey's telephone number is (404) 562–9104; email address: *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

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

I. Background

EPA is taking final action on portions of Mississippi's May 12, 2011, SIP revision to incorporate by reference (IBR) [1] federal requirements for NSR permitting. Mississippi's May 12, 2011, SIP revision includes changes to its air quality regulations in Air Pollution Control, Section 5 (APC–S–5)—*Regulations for the Prevention of Significant Deterioration of Air Quality.* The May 12, 2011, changes IBR federal PSD permitting regulations promulgated in the final rulemakings entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$),'' 73 FR 28321 (May 16, 2008), hereafter referred to as the ''NSR $PM_{2.5}$ Rule,'' and ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels SILs and Significant Monitoring Concentration (SMC),'' 75 FR 64864 (October 20, 2010) hereafter referred to as the ''$PM_{2.5}$ PSD Increment-SILs-SMC Rule''). Additionally, Mississippi's SIP revision requests that EPA remove from the SIP the exclusion language at APC–S–5 (2.7) regarding the NSR $PM_{2.5}$ Rule provisions. EPA is not approving in this action: (1) incorporation of the SIL thresholds and provisions promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule, 75 FR 64864 (October 20, 2010); and (2) incorporation of the provision regarding the applicability of the term ''particulate matter emissions'' when accounting for condensable particles in applicability determinations and in establishing emissions limitations in PSD permits.[2]

On July 23, 2012, EPA published a proposed rulemaking to approve the aforementioned changes to Mississippi's NSR PSD program at APC–S–5. *See* 77 FR 43032. Comments on the proposed rulemaking were due on or before August 22, 2012. No comments, adverse or otherwise, were received on EPA's July 23, 2012, proposed rulemaking. Pursuant to section 110 of the CAA, EPA is now taking final action to approve the changes to Mississippi's NSR PSD program as provided in EPA's July 23, 2012, proposed rulemaking. A summary of the background for today's final action is provided below. EPA's July 23, 2012, proposed rulemaking contains more detailed information regarding the Mississippi SIP revision being approved today, and the rationale for today's final action. Detailed information regarding the $PM_{2.5}$ NAAQS and NSR Program can also be found in EPA's July 23, 2012, proposed rulemaking as well as the abovementioned final rulemakings.

A. NSR $PM_{2.5}$ Rule

EPA finalized the NSR $PM_{2.5}$ Rule on May 16, 2008, which revised the NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment areas and nonattainment areas (NAAs) that: (1) Require NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) establish significant emission rates for direct $PM_{2.5}$ and precursor pollutants (including sulfur dioxide (SO_2) and nitrogen oxides (NOx)); (3) establish $PM_{2.5}$ emission offsets; (4) provide exceptions to the grandfathering policy for permits being reviewed under the PM_{10} surrogate program; and (5) require states to account for gases that condense to form particles (condensables) in $PM_{2.5}$ and PM_{10} emission limits in PSD or nonattainment NSR (NNSR) permits. Additionally, the NSR $PM_{2.5}$ Rule authorized states to adopt provisions in their NNSR rules that would allow interpollutant offset trading. *See* 73 FR 28321. States were required to provide SIP submissions to address the requirements for the NSR $PM_{2.5}$ Rule by May 16, 2011. Mississippi's May 12, 2011, SIP revision addresses only the PSD requirements related to EPA's May 16, 2008, NSR $PM_{2.5}$ Rule.[3]

1. PM_{10} Surrogate and Grandfathering Policy

In the NSR $PM_{2.5}$ Rule, EPA required that major stationary sources seeking permits must begin directly satisfying the $PM_{2.5}$ requirements, as of the effective date of the rule, rather than relying on PM_{10} as a surrogate, with two exceptions.[4] The first exception is a ''grandfathering'' provision in the federal PSD program at 40 CFR 52.21(i)(1)(xi). This grandfathering provision applied to sources that had applied for, but had not yet received, a final and effective PSD permit before the July 15, 2008, effective date of the May 2008 final rule. The second exception was that states with SIP-approved PSD programs could continue to implement the Seitz Memo's PM_{10} Surrogate Policy for up to three years (until May 2011) or until the individual revised state PSD programs for $PM_{2.5}$ are approved by EPA, whichever comes first. On May 18, 2011 (76 FR 28646), EPA took final action to repeal the grandfathering provision at 40 CFR 52.21(i)(1)(xi). This final action ended the use of the 1997 PM_{10} Surrogate Policy for PSD permits under the federal PSD program at 40 CFR 52.21. In effect, any PSD permit applicant previously covered by the grandfathering provision (for sources that completed and submitted a permit application before July 15, 2008) [5] that did not have a final and effective PSD permit before the effective date of the repeal will not be able to rely on the 1997 p.m.$_{10}$ Surrogate Policy to satisfy the PSD requirements for $PM_{2.5}$ unless the application includes a valid surrogacy demonstration.[6] *See* 76 FR

[1] Throughout this document IBR means incorporate or incorporates by reference.

[2] Today's final action approves the incorporation by reference of 40 CFR 52.21 into the Mississippi SIP as of March 22, 2011 apart from the exclusions stated in this final rulemaking and at 40 CFR 52.1270(c). Any previous EPA exclusions to APS–S–5 at 40 CFR 52.1270(c) remain in effect.

[3] Mississippi's May 12, 2011, SIP revision only addresses the State's PSD permitting program and does not adopt the NNSR permitting requirements for $PM_{2.5}$ emission offsets, condensable provision or the discretionary interpollutant trading policy and ratios promulgated in the 2008 NSR $PM_{2.5}$ Rule. Moreover, Mississippi is attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

[4] After EPA promulgated the NAAQS for $PM_{2.5}$ in 1997, the Agency issued guidance documents related to using PM_{10} as a surrogate for $PM_{2.5}$ entitled: ''Interim Implementation of New Source Review Requirements for $PM_{2.5}$.'' John S. Seitz, EPA, October 23, 1997 (the ''Seitz Memo'') and ''Implementation of New Source Review Requirements in $PM_{2.5}$ Nonattainment Areas'' (the ''2005 $PM_{2.5}$ NNSR Guidance''). The Seitz Memo was designed to help states implement NSR requirements pertaining to the new $PM_{2.5}$ NAAQS in light of technical difficulties posed by $PM_{2.5}$ at that time. The 2005 $PM_{2.5}$ NNSR Guidance provided direction regarding implementation of the NNSR provisions in $PM_{2.5}$ NAA in the interim period between the effective date of the $PM_{2.5}$ NAA designations (April 5, 2005) and EPA's promulgation of final $PM_{2.5}$ NNSR regulations (this included recommending that until EPA promulgated the $PM_{2.5}$ major NSR regulations, ''States should use a PM_{10} nonattainment major NSR program as a surrogate to address the requirements of nonattainment major NSR for the $PM_{2.5}$ NAAQS.'').

[5] Sources that applied for a PSD permit under the federal PSD program on or after July 15, 2008, are already excluded from using the 1997 PM_{10} Surrogate Policy as a means of satisfying the PSD requirements for $PM_{2.5}$. *See* 76 FR 28321.

[6] Additional information on this issue can also be found in an August 12, 2009, final order on a title

28646. In its May 12, 2011, SIP revision, Mississippi did not adopt the grandfathering provision at 40 CFR 52.21(i)(1)(xi) into its PSD regulations. Therefore, Mississippi's SIP is consistent with current federal regulations regarding the repeal of the grandfathering provision.

2. ''Condensable'' Provision

In the NSR $PM_{2.5}$ Rule, EPA revised the definition of ''*regulated NSR pollutant*'' for PSD to add a paragraph providing that ''particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions'' shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures and that on or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits issued. *See* 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and ''Emissions Offset Interpretative Ruling'' (40 CFR Part 51, Appendix S). On March 16, 2012, EPA proposed a rulemaking to amend the definition of ''*regulated NSR pollutant*'' promulgated in the NSR $PM_{2.5}$ Rule regarding the PM condensable provision at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(i) and EPA's Emissions Offset Interpretative Ruling. *See* 77 FR 15656. The rulemaking proposes to remove the inadvertent requirement in the NSR $PM_{2.5}$ Rule that the measurement of condensable ''particulate matter emissions'' be included as part of the measurement and regulation of ''particulate matter emissions.'' [7] Mississippi's May 12, 2011, SIP revision adopts EPA's definition for ''*regulated NSR pollutant*'' for condensables (at 40 CFR 51.166(b)(49)(vi)), including the term ''particulate matter emissions,'' as promulgated in the NSR $PM_{2.5}$ Rule. On June 26, 2012, the State of Mississippi provided a letter to EPA clarifying the State's intent in light of EPA's March 12, 2012, proposed rulemaking and requesting that EPA not approve into the Mississippi SIP the term ''particulate matter emissions'' (as part of the definition for ''*regulated NSR pollutant*'') regarding the inclusion of condensable emissions in applicability determinations and in establishing emissions limitations for PM.

3. NO_X Insignificance Demonstration

In addition to direct $PM_{2.5}$ emissions, pollutants that can contribute to ambient $PM_{2.5}$ concentrations (known as ''precursors'') include SO_2, NO_x, volatile organic compounds (VOC) and ammonia (all of which undergo chemical reactions to form secondary PM). In the NSR $PM_{2.5}$ Rule, EPA established a ''presumed-in'' approach for NO_x as a $PM_{2.5}$ precursor. This approach is warranted based on the well-known transformation of NO_x into nitrates, coupled with the fact that nitrate concentrations vary significantly around the country. The final NSR $PM_{2.5}$ Rule requires that states treat NO_x as a $PM_{2.5}$ precursor in all areas unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of NO_x from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.[8] *See* 40 CFR 51.166(b)(49)(i), 51.165(a)(1)(xxxvii) and 52.21(b)(50)(i). If EPA makes such a demonstration, or a state makes such a demonstration and it is approved by EPA, NO_x would not be considered a $PM_{2.5}$ precursor under the NSR program in that area. If a State or EPA does not make such a demonstration, NO_x must be regulated as a precursor under the PSD, NNSR, and minor source programs for $PM_{2.5}$. Mississippi's May 12, 2011, SIP revision IBR the provision that NO_x is presumed to be a precursor for $PM_{2.5}$. However, MDEQ also submitted to EPA a NO_x insignificance demonstration to show that NO_x emissions in the State of Mississippi are not contributing significantly to ambient $PM_{2.5}$ concentrations in the State. At this time, EPA is still considering Mississippi's NO_x insignificance demonstration and will take action on this portion of MDEQ's May 12, 2011, SIP revision in a separate rulemaking.

B. $PM_{2.5}$ PSD Increment SILs-SMC Rule

The $PM_{2.5}$ PSD Increment-SILs-SMC Rule provided additional regulatory requirements under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR, including (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC, (also a screening tool) used by a major source subject to PSD to determine the subsequent level of data gathering required for a PSD permit application for emissions of $PM_{2.5}$. The SILs and SMC are numerical values that represent thresholds of insignificant, *i.e., de minimis,*[9] modeled source impacts or monitored (ambient) concentrations, respectively. EPA established such values to be used as screening tools by a major source subject to PSD to determine the subsequent level of $PM_{2.5}$ analysis and data gathering required for a PSD permit application. EPA's authority to implement the SILs and SMC for PSD purposes has been challenged by the Sierra Club. *Sierra Club* v. *EPA,* Case No 10–1413 (DC Circuit Court).[10]

1. PSD Increments

PSD increments prevent air quality in clean areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate ''significant deterioration'' [11] of air quality for a pollutant in an area. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' When a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause

V petition describing the use of PM_{10} as a surrogate for $PM_{2.5}$. In the Matter of *Louisville Gas & Electric Company,* Petition No. IV–2008–3, Order on Petition (August 12, 2009).

[7] The term ''particulate matter emissions'' includes particles that are larger than $PM_{2.5}$ and PM_{10} and is an indicator measured under various New Source Performance Standards (NSPS) at 40 CFR part 60. In addition to the NSPS for PM, it is noted that states have regulated ''particulate matter emissions'' for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63, regarding National Emission Standards for Hazardous Air Pollutants.

[8] The NSR $PM_{2.5}$ Rule presumes that VOC and ammonia are not precursors to $PM_{2.5}$ unless a state or EPA demonstrates that these pollutants are significantly contributing to the ambient $PM_{2.5}$ concentrations in a specific area. The rule requires that SO_2 be treated as a precursor to $PM_{2.5}$ in all areas.

[9] The *de minimis* principle is grounded in a decision described by the court case *Alabama Power Co.* v. *Costle,* 636 F.2d 323, 360 (DC Cir. 1980). In this case, reviewing EPA's 1978 PSD regulations, the court recognized that ''there is likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value.'' 636 F.2d at 360. *See* 75 FR 64864.

[10] On April 6, 2012, EPA filed a brief with the DC Circuit court defending the Agency's authority to implement SILs and SMC for PSD purposes.

[11] Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration [11] for that pollutant. Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

significant deterioration in air quality. As described in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical PSD increments for $PM_{2.5}$ as a new pollutant [12] for which NAAQS were established after August 7, 1977,[13] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64869 and ambient air increment tables at 40 CFR 51.166(c)(1) and 52.21(c). In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''*major source baseline date''* and ''*minor source baseline date''* (including trigger date) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864.

2. Significant Monitoring Concentrations

As mentioned above, the SMC numerical value represents a threshold of insignificant (*i.e., de minimis*) monitored ambient impacts on pollutant concentrations. In the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, EPA established a $PM_{2.5}$ SMC of 4 $\mu g/m^3$ to be used as a screening tool by a major source subject to PSD to determine the subsequent level of $PM_{2.5}$ data gathering required for a PSD permit application. Using the SMC as a screening tool, sources may be able to demonstrate that the modeled air quality impact of emissions from the new source or modification, or the existing air quality level in the area where the source would construct, is less than the SMC (*i.e., de minimis*), and as such, may be allowed to forego the preconstruction monitoring requirement for a particular pollutant at the discretion of the reviewing authority.

Recently, the Sierra Club filed suit challenging EPA's authority to implement the $PM_{2.5}$ SILs [14] as well as the SMC for PSD purposes as promulgated in the October 20, 2012, rule. *Sierra Club* v. *EPA,* Case No. 10–1413, DC Circuit Court. Specifically, regarding the SMC, Sierra Club claims that the use of SMCs to exempt a source from submitting a year's worth of monitoring data is inconsistent with the CAA. EPA responded to Sierra Club's claims in a Brief dated April 6, 2012, which describes the Agency's authority to develop and promulgate SMC.[15] A copy of EPA's April 6, 2010, Brief can be found in the docket for today's final rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0081.

II. This Action

EPA is taking final action to approve into the Mississippi SIP portions of the State's May 12, 2011, SIP revision, which IBR the PSD permitting regulations to implement the $PM_{2.5}$ NAAQS. Mississippi's regulation APC–S–5 IBR the federal NSR PSD regulations at 40 CFR 51.166 and 52.21 into the Mississippi SIP. In effect, MDEQ's May 12, 2011, SIP revision updates the State's IBR date for APC–S–5 to March 22, 2011, to include PSD permitting regulations promulgated in the NSR $PM_{2.5}$ Rule and the $PM_{2.5}$ PSD Increment-SILs-SMC Rule in the Mississippi SIP. These changes to Mississippi's regulation APC–S–5 became state effective on June 2, 2011. MDEQ's SIP revision IBR the NSR $PM_{2.5}$ Rule PSD provisions at regulation APC–S–5, including: (1) The requirement for NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) significant emission rates for direct $PM_{2.5}$ and precursor pollutants (SO_2 and NO_X) and establishing $PM_{2.5}$ precursors (as amended at 40 CFR 51.166(b)(23)(i)) for the definition of ''*significant''* and ''*regulated NSR pollutant,*'' respectively; and (3) PSD requirement for states to address condensable PM in establishing enforceable emission limits for PM_{10} and $PM_{2.5}$ (as amended at definition of ''*regulated NSR pollutant* ''at 40 CFR 51.166(b)(49)).

Regarding the condensable provision, in light of Mississippi's request in its June 26, 2012, letter and EPA's intention to amend the definition of ''regulated NSR pollutant'' as discussed in the March 12, 2012, correction rulemaking, EPA is not taking final action to approve the terminology ''particulate matter emissions'' into the Mississippi SIP (at APC–S–5) for the condensable provision in the definition of ''*regulated NSR pollutant.*'' *See* 77 FR 15656. EPA is, however, taking final action to approve into the Mississippi SIP the remaining condensable requirement at 40 CFR 51.166(b)(49)(vi), which requires that condensable emissions be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and $PM_{10.}$ Mississippi's May 12, 2011, SIP revision did not IBR the grandfathering provision at 40 CFR 52.21(i)(1)(xi) in accordance with the repeal of the $PM_{2.5}$ grandfathering provision. Rather, the SIP revision includes new language at APC–S–5(2.7) that excludes the provision for $PM_{2.5}$ (at 40 CFR 52.21(i)(1)(xi)) from the PSD program regulations.

As stated in Mississippi's May 12, 2011, SIP revision, NO_X will be considered a precursor to $PM_{2.5}$ in Mississippi until such time as EPA takes action on the State's NO_X insignificance demonstration or upon plan disapproval. As part of MDEQ's May 12, 2011, revision to IBR the federal regulations at 40 CFR 51.166 and 52.21, EPA is taking final action, at this time, to approve into the Mississippi SIP that NO_X is a presumed $PM_{2.5}$ precursor. EPA is considering Mississippi's NO_X insignificance demonstration and will take action on this portion of the May 12, 2011, SIP submission in a separate rulemaking. Mississippi's May 12, 2011, SIP revision also removes from APC–S–5(2.7) language that excludes NSR $PM_{2.5}$ Rule permitting requirements from inclusion into the Mississippi SIP.[16] Because MDEQ's May 12, 2011, SIP revision adopts the aforementioned provisions promulgated in the May 16, 2008, NSR $PM_{2.5}$ Rule, the exclusion language is no longer necessary.

With respect to the $PM_{2.5}$ PSD Increment-SILs SMC Rule, EPA is taking final action to also approve into the Mississippi SIP the PSD increments for $PM_{2.5}$ annual and 24-hour NAAQS pursuant to section 166(a) of the CAA and SMC of 4 $\mu g/m^3$ for $PM_{2.5}$ NAAQS. The May 12, 2011, SIP revision IBR the $PM_{2.5}$ increments established in the ambient air increment tables at 40 CFR 51.166(c)(1) and (p)(4) and 52.21(c); the amendments to the ''*major source*

[12] EPA generally characterized the $PM_{2.5}$ NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM_{10} NAAQS with the NAAQS for $PM_{2.5}$ when the $PM_{2.5}$ NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour NAAQS for $PM_{2.5}$ as if $PM_{2.5}$ was a new pollutant even though EPA had already developed air quality criteria for PM generally. *See* 75 FR 64864 (October 20, 2012).

[13] EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

[14] As mentioned earlier, due to litigation by the Sierra Club, EPA is not taking final action on the SILs portion of the Mississippi May 12, 2011, SIP revision at this time but will take action once the court case regarding SILs implementation is resolved.

[15] Additional information on this issue can also be found in an April 25, 2010, comment letter from EPA Region 6 to the Louisiana Department of Environmental Quality regarding the SILs-SMC litigation. A copy of this letter can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0081.

[16] In Mississippi's December 9, 2010, Greenhouse Gas Tailoring Rule final SIP revision, MDEQ added specific language at APC–S–5(2.7) excluding from the IBR of 40 CFR 52.21 the PSD NSR $PM_{2.5}$ Rule provisions promulgated in the May 16, 2008, rule and stated they would submit a separate rulemaking to address those PSD requirements.

baseline date'' (at 40 CFR 51.166(b)(14)(i)(c)) and 52.21(b)(14)(i)(c)); the ''*minor source baseline date*'' and establishment of the ''trigger date'' (40 CFR 51.166(b)(14)(ii)(c) and 52.21(b)(14)(ii)(c)); and the definition of ''*baseline area*'' (at 40 CFR 51.166(b)(15)(i) and (ii) and 52.21(b)(15)(i) and (ii)).

Regarding the SILs and SMC, EPA's authority to implement the $PM_{2.5}$ SILs and SMC is currently the subject of litigation by the Sierra Club. In a brief filed in the DC Circuit on April 6, 2012, EPA described the Agency's authority under the CAA to promulgate and implement the SMCs and SILs *de minimis* thresholds. *Sierra Club* v. *EPA,* Case No 10–1413 DC Circuit. However, EPA is finalizing approval of the promulgated SMC thresholds into the Mississippi SIP because the Agency believes the SMC is a valid exercise of the Agency's *de minimis* authority as well as the fact they are consistent with EPA's promulgated levels in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule. The ongoing litigation may result in the court decision that may require subsequent rule revisions and SIP revisions from Mississippi.

In response to the litigation, EPA requested that the court remand and vacate the new regulatory text at 40 CFR 51.166(k)(2) and 52.21(k)(2) concerning the implementation of SILs for $PM_{2.5}$ so that EPA can make necessary rulemaking revisions to that text.[17] In light of EPA's request for remand and vacatur and our acknowledgement of the need to revise the regulatory text presently contained at paragraph (k)(2) of sections 51.166 and 52.21, the Agency has determined at this time not to approve the SILs portion of the MDEQ's May 12, 2011, SIP revision that contains the affected regulatory text in Mississippi's PSD regulations at APC–S–5. EPA will take action on the SILs portion of Mississippi's May 12, 2011, SIP revision in a separate rulemaking once the issue regarding the court case has been resolved.[18]

[17] In the preamble to the October 20, 2010, final rule EPA indicates that the Agency does not consider the SILs to be a mandatory SIP element, but regard them as discretionary on the part of regulating authority for use in the PSD permitting process. *See* 75 FR 64864 at 64899.

[18] EPA is currently developing guidance to provide provisional course of action to implement the $PM_{2.5}$ SILs pending revision to the (k)(2) provisions and the litigation. The guidance will ensure that the $PM_{2.5}$ SILs are properly applied as part of a PSD compliance demonstration to show that a source's impact will not cause or contribute to a violation of the $PM_{2.5}$ NAAQS or increment.

III. Final Action

EPA is taking final action to approve portions of Mississippi's May 12, 2011, SIP revisions (with the exception of the term ''particulate matter emissions'' and the SILs threshold and provisions) that IBR federal regulations amended in the NSR $PM_{2.5}$ and the $PM_{2.5}$ PSD Increment-SILs-SMC Rules to implement the $PM_{2.5}$ NAAQS for the NSR program because they are consistent with section 110 of the CAA and its regulations regarding NSR permitting.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 6, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart Z—Mississippi

■ 2. Section 52.1270(c) is amended by revising entry ''APC–S–5'' to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	* * *
APC–S–5–Regulations for Prevention of Significant Deterioration for Air Quality				
All		06/2/2011	9–26–12 [Insert citation of publication].	As of 9–26–2012 EPA is approving a revision to APC–S–5 incorporating by reference the regulations found at 40 CFR 52.21 as of March 22, 2011. *See* [Insert citation of publication]. This approval does not include Mississippi's revision to IBR (at Rule APC–S–5) the term ''particulate matter emissions'' (as promulgated in the May 16, 2008 NSR $PM_{2.5}$ Rule (at 40 CFR 51.166(b)(49)(vi)) and the $PM_{2.5}$ SILs threshold and provisions (as promulgated in the October 20, 2010 $PM_{2.5}$ PSD Increment-SILs-SMC Rule at 40 CFR 52.21(k)(2)). On December 29, 2010, EPA approved a revision to APC–S–5 which incorporated by reference the regulations found at 40 CFR 52.21 as of September 13, 2010. *See* 75 FR 81858. That action approved the incorporation by reference with the exception of the phrase ''except ethanol production facilities producing ethanol by natural fermentation under the North American Industry Classification System (NAICS) codes 325193 or 312140,'' APC–S–5 incorporated by reference from 40 CFR 52.21(b)(1)(i)(a) and (b)(1(iii)(t). Additionally, that final EPA action did not incorporate by reference, into the Mississippi SIP, the administrative regulations that were amended in the Fugitive Emissions Rule (73 FR 77882) and are stayed through October 3, 2011.

* * * * *

[FR Doc. 2012–23570 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0079; FRL–9731–5]

Approval and Promulgation of Implementation Plans; Alabama: General and Transportation Conformity & New Source Review Prevention of Significant Deterioration for Fine Particulate Matter ($PM_{2.5}$)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve changes to the Alabama State Implementation Plan (SIP), submitted by the Alabama Department of Environmental Management (ADEM) to EPA on May 2, 2011. The May 2, 2011, SIP revision modifies Alabama's New Source Review (NSR), Prevention of Significant Deterioration (PSD), and Nonattainment New Source Review (NNSR) programs to adopt into the Alabama SIP federal NSR PSD requirements for the fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) as promulgated in EPA's 2008 NSR $PM_{2.5}$ Implementation Rule and the 2010 $PM_{2.5}$ PSD Increment, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) Rule. The SIP revision also changes the State's general and transportation conformity regulations. EPA is approving portions of Alabama's May 2, 2011, SIP revision because they are consistent with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting. EPA received one off-topic comment on the August 6, 2012, proposed rulemaking, and a brief response is provided below.

DATES: *Effective Date:* This rule will be effective October 26, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0079. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Florida SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9214; email address: *adams.yolanda@epa.gov.* For information regarding the $PM_{2.5}$ NAAQS, contact Mr. Joel Huey, Regulatory Development Section, at the same address above. Mr. Huey's telephone number is (404) 562–9104; email address: *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. This Action
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I. Background

EPA is taking final action to approve portions of Alabama's May 2, 2011, SIP revision to adopt federal NSR permitting requirements and federal general and transportation conformity regulations into the SIP. Alabama's May 2, 2011, SIP revision includes changes to the regulations at Administrative Code for Division 3: Chapter 335–3–14—*Permits* and Chapter 335–3–17—*Conformity of Federal Actions to State Implementation Plans.* These changes adopt federal PSD permitting regulations promulgated in the final rulemakings entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$),'' 73 FR 28321 (May 16, 2008), hereafter referred to as the ''NSR $PM_{2.5}$ Rule'' and ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC),'' 75 FR 64864 (October 20, 2010), hereafter referred to as the ''$PM_{2.5}$ PSD Increment-SILs-SMC Rule.'' Additionally, the SIP revision changes the State's general and transportation conformity regulations which incorporate by reference (IBR) [1] the federal conformity updates.

EPA is not approving in this action: (1) NNSR changes amended at rule 335–3–14–.05;[2] (2) SIL thresholds and provisions promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule, 75 FR 64864 (October 20, 2010);[3] and (3) the term ''particulate matter emissions'' when accounting for condensable particles for $PM_{2.5}$ emission limits for the definition of ''regulated NSR pollutant,'' 77 FR 15656 (March 16, 2012). EPA will consider action on the NNSR changes and SILs provisions separate from this rulemaking.

On August 6, 2012, EPA published a proposed rulemaking to approve the aforementioned changes to Alabama's SIP. *See* 77 FR 46664. Comments on the proposed rulemaking were due on or before September 7, 2012, and EPA received one off-topic comment. Although EPA has no obligation to respond to such comments, a brief response is provided in section III of this notice.

Pursuant to section 110 of the CAA, EPA is now taking final action to approve the changes to Alabama's SIP as provided in EPA's August 6, 2012, proposed rulemaking. A summary of the background for today's final action is provided below. EPA's August 6, 2012, proposed rulemaking contains more detailed information regarding the Alabama SIP revision being approved today and the rationale for today's final action. Detailed information regarding the $PM_{2.5}$ NAAQS and NSR Program can also be found in EPA's August 6, 2012, proposed rulemaking as well as the abovementioned final rulemakings.

A. NSR $PM_{2.5}$ Rule

On May 16, 2008, EPA finalized the NSR $PM_{2.5}$ Rule, which revised the NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment areas and nonattainment areas (NAA) that: (1) Require NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) establish significant emission rates for direct $PM_{2.5}$ and precursor pollutants (including sulfur dioxide (SO_2) and nitrogen oxides (NOx)); (3) establish $PM_{2.5}$ emission offsets; (4) provide exceptions to the grandfathering policy for permits being reviewed under the PM_{10} surrogate program; and (5) require states to account for gases that condense to form particles (condensables) in $PM_{2.5}$ and PM_{10} emission limits in PSD NNSR permits. Additionally, the NSR $PM_{2.5}$ Rule authorized states to adopt provisions in their NNSR rules that would allow interpollutant offset trading. *See* 73 FR 28321. States were required to provide SIP submissions to address the requirements for the NSR $PM_{2.5}$ Rule by May 16, 2011. Alabama's May 2, 2011, SIP revision addresses both the PSD and NNSR requirements related to EPA's May 16, 2008, NSR $PM_{2.5}$ Rule. However, EPA is only taking final action on the PSD portion of the State's May 2, 2011, SIP revision.

1. PM_{10} Surrogate and Grandfathering Policy

In the NSR $PM_{2.5}$ Rule, EPA required that major stationary sources seeking permits must begin directly satisfying the $PM_{2.5}$ requirements, as of the effective date of the rule, rather than relying on PM_{10} as a surrogate, with two exceptions.[4] The first exception is a ''grandfathering'' provision in the federal PSD program at 40 CFR 52.21(i)(1)(xi). This grandfathering provision applied to sources that had applied for, but had not yet received, a final and effective PSD permit before the July 15, 2008, effective date of the May 2008 final rule. The second exception was that states with SIP-approved PSD programs could continue to implement the Seitz Memo's PM_{10} Surrogate Policy for up to three years (until May 2011) or until the individual revised state PSD programs for $PM_{2.5}$ are approved by EPA, whichever comes first. On May 18, 2011 (76 FR 28646), EPA took final action to repeal the grandfathering provision at 40 CFR 52.21(i)(1)(xi). This final action ended the use of the 1997 PM_{10} Surrogate Policy for PSD permits under the federal PSD program at 40 CFR 52.21. In effect, any PSD permit applicant previously covered by the grandfathering provision (for sources that completed and submitted a permit

[1] In this document IBR means incorporate or incorporates by reference.

[2] Alabama's May 2, 2011, SIP revision also made changes to its NNSR regulations to be consistent with federal NSR regulations including provisions promulgated in the NSR $PM_{2.5}$ Rule, $PM_{2.5}$ PSD Increment-SILs-SMC Rule and other NSR rulemakings. EPA will consider action on this portion of Alabama's May 2, 2011, SIP in a separate rulemaking.

[3] EPA's authority to implement the SILs and SMC for PSD purposes has been challenged by the Sierra Club. *Sierra Club* v. *EPA,* Case No. 10–1413 United States Court of Appeals for the District of Columbia (D.C. Circuit Court).

[4] After EPA promulgated the NAAQS for $PM_{2.5}$ in 1997, the Agency issued guidance documents related to using PM_{10} as a surrogate for $PM_{2.5}$ entitled: ''Interim Implementation of New Source Review Requirements for $PM_{2.5}$.'' John S. Seitz, EPA, October 23, 1997 (the ''Seitz Memo'') and ''Implementation of New Source Review Requirements in $PM_{2.5}$ Nonattainment Areas'' (the ''2005 $PM_{2.5}$ NNSR Guidance''). The Seitz Memo was designed to help states implement NSR requirements pertaining to the new $PM_{2.5}$ NAAQS in light of technical difficulties posed by $PM_{2.5}$ at that time. The 2005 $PM_{2.5}$ NNSR Guidance provided direction regarding implementation of the NNSR provisions in $PM_{2.5}$ NAA in the interim period between the effective date of the $PM_{2.5}$ NAA designations (April 5, 2005) and EPA's promulgation of final $PM_{2.5}$ NNSR regulations (this included recommending that until EPA promulgated the $PM_{2.5}$ major NSR regulations, ''States should use a PM_{10} nonattainment major NSR program as a surrogate to address the requirements of nonattainment major NSR for the $PM_{2.5}$ NAAQS.'').

application before July 15, 2008)[5] that did not have a final and effective PSD permit before the effective date of the repeal will not be able to rely on the 1997 PM_{10} Surrogate Policy to satisfy the PSD requirements for $PM_{2.5}$ unless the application includes a valid surrogacy demonstration.[6] *See* 76 FR 28646. In its May 2, 2011, SIP revision, Alabama did not adopt the grandfathering provision at 40 CFR 52.21(i)(1)(xi) into its PSD regulations. Therefore, Alabama's SIP is consistent with current federal regulations regarding the repeal of the grandfathering provision.

2. ''Condensable'' Provision

In the NSR $PM_{2.5}$ Rule, EPA revised the definition of ''*regulated NSR pollutant''* for PSD to add a paragraph providing that ''particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions'' shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures and that on or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits issued. *See* 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and ''Emissions Offset Interpretative Ruling'' (40 CFR Part 51, Appendix S). On March 16, 2012, EPA proposed a rulemaking to amend the definition of ''*regulated NSR pollutant*'' promulgated in the NSR $PM_{2.5}$ Rule regarding the PM condensable provision at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(i) and EPA's Emissions Offset Interpretative Ruling. *See* 77 FR 15656. The rulemaking proposes to remove the inadvertent requirement in the NSR $PM_{2.5}$ Rule that the measurement of condensable ''particulate matter emissions'' be included as part of the measurement and regulation of ''particulate matter emissions.''[7] On June 18, 2012, the State of Alabama provided a letter to EPA clarifying the State's intent in light of EPA's March 16, 2012, proposed rulemaking and requesting that EPA not approve into the Alabama SIP the term ''particulate matter emissions'' (as part of the definition for ''*regulated NSR pollutant''*) regarding the inclusion of condensable emissions in applicability determinations and in establishing emissions limitations for PM.

B. $PM_{2.5}$ PSD Increment SILs-SMC Rule

The $PM_{2.5}$ PSD Increment-SILs-SMC Rule provided additional regulatory requirements under the PSD program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR including: (1) $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS; (2) SILs used as a screening tool (by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and (3) a SMC, (also a screening tool) used by a major source subject to PSD to determine the subsequent level of $PM_{2.5}$ data gathering required for a PSD permit application. The SILs and SMC are numerical values that represent thresholds of insignificant, *i.e., de minimis,*[8] modeled source impacts or monitored (ambient) concentrations, respectively. EPA established such values to be used as screening tools by a major source subject to PSD to determine the subsequent level of analysis and data gathering required for a PSD permit application for emissions of $PM_{2.5}$. EPA's authority to implement the SILs and SMC for PSD purposes has been challenged by the Sierra Club. *Sierra Club* v. *EPA,* Case No. 10–1413 (D.C. Circuit Court).[9]

1. PSD Increments

PSD increments prevent air quality in clean areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate ''significant deterioration''[10] of air quality for a pollutant in an area. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' When a source applies for a permit to emit a regulated pollutant in an area that meets the NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. As described in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical PSD increments for $PM_{2.5}$ as a new pollutant[11] for which NAAQS were established after August 7, 1977,[12] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64869 and the ambient air increment tables at 40 CFR 51.166(c)(1) and 52.21(c). In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increment-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''*major source baseline date*'' and ''*minor source baseline date*'' (including trigger date) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864.

2. Significant Impact Levels

The primary purpose of the SILs is to identify a level of ambient impact that is sufficiently low relative to the NAAQS or increments that such impact can be considered insignificant or *de minimis.* EPA's policy has been to allow the use of the SILs as *de minimis* thresholds under the NSR programs at 40 CFR 51.165(b) and part 51, appendix

[5] Sources that applied for a PSD permit under the federal PSD program on or after July 15, 2008, are already excluded from using the 1997 PM_{10} Surrogate Policy as a means of satisfying the PSD requirements for $PM_{2.5}$. *See* 76 FR 28321.

[6] Additional information on this issue can also be found in an August 12, 2009, final order on a title V petition describing the use of PM_{10} as a surrogate for $PM_{2.5}$. In the Matter of *Louisville Gas & Electric Company,* Petition No. IV–2008–3, Order on Petition (August 12, 2009).

[7] The term ''particulate matter emissions'' includes particles that are larger than $PM_{2.5}$ and PM_{10} and is an indicator measured under various New Source Performance Standards (NSPS) at 40 CFR part 60. In addition to the NSPS for PM, it is noted that states have regulated ''particulate matter emissions'' for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63, regarding National Emission Standards for Hazardous Air Pollutants.

[8] The *de minimis* principle is grounded in a decision described by the court case *Alabama Power Co.* v. *Costle,* 636 F.2d 323, 360 (D.C. Cir. 1980). In this case, reviewing EPA's 1978 PSD regulations, the court recognized that ''there is likely a basis for an implication of *de minimis* authority to provide exemption when the burdens of regulation yield a gain of trivial or no value.'' 636 F.2d at 360. *See* 75 FR 64864.

[9] On April 6, 2012, EPA filed a brief with the D.C. Circuit court defending the Agency's authority to implement SILs and SMC for PSD purposes.

[10] Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration for that pollutant. Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

[11] EPA generally characterized the $PM_{2.5}$ NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM_{10} NAAQS with the NAAQS for $PM_{2.5}$ when the $PM_{2.5}$ NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour NAAQS for $PM_{2.5}$ as if $PM_{2.5}$ was a new pollutant even though EPA had already developed air quality criteria for PM generally. *See* 75 FR 64864 (October 20, 2012).

[12] EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

S, to determine whether the predicted ambient impact resulting from the emissions increase at a proposed major new stationary source or modification is considered to cause or contribute to a violation of the NAAQS.[13]

In the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, EPA established the SILs threshold which reflects the degree of ambient impact on $PM_{2.5}$ concentrations that can be considered *de minimis* and would justify no further analysis or modeling of the air quality impact of a source in combination with other sources in the area because the source would not cause or contribute to an exceedance of the $PM_{2.5}$ NAAQS or the $PM_{2.5}$ increments. *See* 75 FR 64864. When a proposed major new source or major modification projects (using air quality modeling) a $PM_{2.5}$ impact less than the $PM_{2.5}$ SILs, the proposed construction or modification is considered to not have a significant air quality impact and would not need to complete a cumulative impact analysis involving an analysis of other sources in the area. Additionally, a source with a de minimis ambient impact would not be considered to cause or contribute to a violation of the $PM_{2.5}$ NAAQS or increments.

The October 20, 2010, rule established the $PM_{2.5}$ SILs in EPA's existing NNSR regulations at 51.165(b)[14] and the PSD regulations at 40 CFR 51.166(k)(2), 52.21(k)(2) and part 51, appendix S, as optional screening tools that became effective on December 20, 2010. Prior to the October 20, 2010, rule, the concept of a SIL was not previously incorporated into the PSD regulations. Where a PSD source located in such areas may have an impact on an adjacent nonattainment area, the PSD source must still demonstrate that it will not cause or contribute to a violation of the NAAQS in the adjacent area. Where emissions from a proposed PSD source or modification would have an ambient impact in a nonattainment area that would exceed the SILs, the source is considered to cause or contribute to a violation of the NAAQS and may not be issued a PSD permit without obtaining emissions reductions to compensate for its impact. *See* 40 CFR 51.165(b)(2)–(3). Alabama's May 2, 2011, SIP submittal addresses the $PM_{2.5}$ SILs thresholds and provisions promulgated in the October 20, 2010, rule at 40 CFR 51.165(b)(2) and 51.166(k)(2).

3. Significant Monitoring Concentrations

As mentioned above, the SMC numerical value represents a threshold of insignificant (*i.e., de minimis*) monitored ambient impacts on pollutant concentrations. In the $PM_{2.5}$ PSD Increment-SILs-SMC Rule, EPA established a $PM_{2.5}$ SMC of 4 $\mu g/m^3$ to be used as a screening tool by a major source subject to PSD to determine the subsequent level of $PM_{2.5}$ data gathering required for a PSD permit application. Using the SMC as a screening tool, sources may be able to demonstrate that the modeled air quality impact of emissions from the new source or modification, or the existing air quality level in the area where the source would construct, is less than the SMC (*i.e., de minimis*), and as such, may be allowed to forego the preconstruction monitoring requirement for a particular pollutant at the discretion of the reviewing authority.

Recently, the Sierra Club filed suit challenging EPA's authority to implement the $PM_{2.5}$ SILs[15] as well as the SMC for PSD purposes as promulgated in the October 20, 2012, rule. *Sierra Club* v. *EPA,* Case No 10–1413, D.C. Circuit Court. Specifically, regarding the SMC, Sierra Club claims that the use of SMCs to exempt a source from submitting a year's worth of monitoring data is inconsistent with the CAA. EPA responded to Sierra Club's claims in a Brief dated April 6, 2012, which describes the Agency's authority to develop and promulgate SMC.[16] A copy of EPA's April 6, 2010, Brief can be found in the docket for today's final rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0079.

C. General and Transportation Conformity

In addition to the adoption of NSR Federal regulations mentioned above, Alabama's SIP revision updates the State's General and Transportation Conformity regulations[17] at Chapter 335–3–17—*Conformity of Federal Actions to State Implementation Plans.* Alabama's Conformity regulations at 335–3–17 include Transportation Conformity rules at 335–3–17.01 and General Conformity rules at 335–3–17.02. The May 2, 2011, SIP revision updates Alabama conformity regulations at Chapter 335–3–17 to be consistent with recent updates to federal General Conformity[18] regulations promulgated on April 5, 2010 (*See* 75 FR 17254) and transportation conformity regulations regarding implementation of the $PM_{2.5}$ and PM_{10} nonattainment and maintenance areas.

II. This Action

As was noted previously, EPA proposed approval of portions of Alabama's May 2, 2011, SIP revision on August 6, 2012, and EPA received one off-topic comment. Although EPA is not obligated to respond to off-topic comments, EPA is nonetheless providing a brief response below. The complete comment is available in the docket for this rulemaking action, but a summary of the comment is as follows. The Commenter states that s/he ''would like to see the science research they put into this'' and suggested that, ''an independent review board to look into this with an unbiased opinion.'' As was explained in the detailed August 6, 2012, proposed rulemaking and supporting docketed information, EPA is obligated to take action on Alabama's May 2, 2011, SIP revision. The technical and legal basis for today's action was

[13] EPA has also allowed the SILs under the PSD program to determine: (1) when a proposed source's ambient impacts warrants a comprehensive (cumulative) source impact analysis and; (2) the size of the impact area within which the air quality analysis is completed. *See* 75 FR 64864. A cumulative analysis is a modeling analysis used to show that the allowable emissions increase from the proposed source, along with other emission increases from existing sources, will not result in a violation of either the NAAQS or increment.

[14] 40 CFR 51.165(b) require states to operate a preconstruction review permit program for major stationary sources that wish to locate in an attainment or unclassifiable area but would cause or contribute to a violation of the NAAQS. The regulations in 40 CFR 51.165(b) establish the minimum requirements for nonattainment NSR programs in SIPs but apply specifically to major stationary sources and major modifications located in attainment or unclassifiable/attainment areas. *See* 40 CFR 51.165(b).

[15] As mentioned earlier, due to litigation by the Sierra Club, EPA is not taking final action on the SILs portion of the Alabama's May 2, 2011, SIP revision at this time but will take action once the court case regarding SILs implementation is resolved.

[16] Additional information on this issue can also be found in an April 25, 2010, comment letter from EPA Region 6 to the Louisiana Department of Environmental Quality regarding the SILs-SMC litigation. A copy of this letter can be found in the docket for today's rulemaking at *www.regulations.gov* using docket ID: EPA–R04–OAR–2012–0079.

[17] In November 1993, EPA promulgated two sets of regulations to implement section 176(c). First, on November 24, EPA promulgated the Transportation Conformity Regulations (applicable to highways and mass transit) to establish the criteria and procedures for determining that transportation plans, programs, and projects which are funded under title 23 U.S. C. or the Federal Transit Act conform with the SIP. *See* 58 FR 62188. On November 30, 1993, EPA promulgated regulations, known as the General Conformity Regulations (applicable to everything else), to ensure that other Federal actions also conformed to the SIPs. *See* 58 FR 62314). Pursuant to section 176(c) of the CAA, General Conformity ensures that Federal actions comply with the NAAQS. In order to meet this CAA requirement, a Federal agency must demonstrate that every action that it undertakes, approves, permits or supports will conform to the appropriate State, Tribal or Federal Implementation Plan.

[18] Alabama IBR the federal General Conformity regulations at 40 CFR 93, Subpart B.

explained in the August 6, 2012, rulemaking, summarized in this final action, and further supported by the additional information provided in the docket for today's rulemaking action. Nothing in the CAA mandates that an independent review board look into today's SIP action. Notably, the comment raises nothing substantively on-point regarding this rulemaking action; but rather, makes broad generalizations that do not appear relevant to today's action.

EPA is now taking final action to approve into the Alabama SIP portions of the State's May 2, 2011, SIP revision to adopt the PSD permitting regulations to implement the $PM_{2.5}$ NAAQS, including the NSR $PM_{2.5}$ and $PM_{2.5}$ Increment-SILs-SMC Rules and changes to the State's General and Transportation Conformity regulations as proposed on August 6, 2012. *See* 77 FR 46664. ADEM's PSD preconstruction regulations are found at rule 335–3–14-.04 and apply to major stationary sources or modifications constructed in areas designated attainment or unclassifiable/attainment as required under part C of title I of the CAA with respect to the NAAQS. Additionally, rule 335–3–14-.03 establishes general standards for granting permits in the State. ADEM's May 2, 2011, changes to Chapter 335–3–14 were submitted to adopt into the State's NSR permitting program PSD provisions promulgated in the NSR $PM_{2.5}$ Rule and the $PM_{2.5}$ PSD Increment-SILs-SMC rule. These changes to Alabama's regulations became state effective on May 23, 2011. ADEM's SIP revision adopts the NSR $PM_{2.5}$ Rule PSD provisions, including: (1) The requirement for NSR permits to address directly emitted $PM_{2.5}$ and precursor pollutants; (2) the amendment establishing significant emission rates for direct $PM_{2.5}$ and precursor pollutants (SO_2 and NO_X) (at 335–3–14–.04(2)(w)) and recognizing $PM_{2.5}$ precursors (at 335–3–14–.04(2)(b) and 335–3–14–.04(2)(w)) as amended at 40 CFR 51.166(b)(23)(i); and (3) the PSD requirement for states to address condensable PM in establishing enforceable emission limits for PM_{10} and $PM_{2.5}$ (at 353–14–.04(2)(ww)(5)) as amended at 40 CFR 51.166(b)(49). Additionally, Alabama's May 2, 2011, SIP revision did not adopt the grandfathering provision at 40 CFR 52.21(i)(1)(xi) in accordance with the repeal of the $PM_{2.5}$ grandfathering provision. As mentioned earlier, EPA anticipates taking action on the May 2, 2011, SIP revision NNSR amendments in a separate rulemaking. Regarding the condensable provision, in light of Alabama's request in its June 18, 2012, letter and EPA's intention to amend the definition of ''regulated NSR pollutant'' as discussed in the March 16, 2012, correction rulemaking, EPA is not taking final action to approve the terminology ''particulate matter emissions'' into the Alabama SIP (at 353–14–.04(2)(ww)(5)) for the condensable provision in the definition of ''*regulated NSR pollutant.''* *See* 77 FR 15656. EPA is, however, taking final action to approve into the Alabama SIP the remaining condensable requirement at 40 CFR 51.166(b)(49)(vi), which requires that condensable emissions be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10}.

With respect to the $PM_{2.5}$ PSD Increment-SILs SMC Rule, EPA is taking final action to also approve into the Alabama SIP the PSD increments for the $PM_{2.5}$ annual and 24-hour NAAQS pursuant to section 166(a) of the CAA and the SMC of 4 $\mu g/m^3$ for the $PM_{2.5}$ NAAQS. The May 2, 2011, SIP revision includes: (1) The $PM_{2.5}$ increments as promulgated at 40 CFR 51.166(c)(1) and (p)(4) (for Class I Variances) and (2) amendments to the terms ''*major source baseline date''* (at 353–14–.04(2)(m)) as amended at 40 CFR 51.166(b)(14)(i)(c) and 52.21(b)(14)(i)(c), ''*minor source baseline date''* (including establishment of the ''trigger date'') (at 353–14–.04(2)(n)1), and ''*baseline area''* (at 353–14–.04(2)(o)) as amended at 51.166(b)(15)(i) and (ii) and 52.21(b)(15)(i).

Regarding the SILs and SMC, EPA's authority to implement the $PM_{2.5}$ SILs and SMC is currently the subject of litigation by the Sierra Club. In a brief filed in the D.C. Circuit on April 6, 2012, EPA described the Agency's authority under the CAA to promulgate and implement the SMCs and SILs *de minimis* thresholds. *Sierra Club v. EPA,* Case No. 10–1413 D.C. Circuit. However, EPA is finalizing approval of the promulgated SMC thresholds into the Alabama SIP (at rule 335–3–14.04(8)(h)) because the Agency believes the SMC is a valid exercise of the Agency's *de minimis* authority as well as the fact they are consistent with EPA's promulgated levels in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule. The ongoing litigation may result in the court decision that may require subsequent rule revisions and SIP revisions from Alabama.

In response to the litigation, EPA requested that the court remand and vacate the new regulatory text at 40 CFR 51.166(k)(2) and 52.21(k)(2) concerning the implementation of SILs for $PM_{2.5}$ so that EPA can make necessary rulemaking revisions to that text.[19] In light of EPA's request for remand and vacatur and our acknowledgement of the need to revise the regulatory text presently contained at paragraph (k)(2) of sections 51.166 and 52.21, the Agency has determined at this time not to approve the SILs portion of ADEM's May 2, 2011, SIP revision that contains the affected regulatory text in Alabama's PSD regulations at rule at rule 335–3–14–04(10)(b). EPA will take action on the SILs portion of Alabama's May 2, 2011, SIP revision in a separate rulemaking once the issue regarding the court case has been resolved.[20] The $PM_{2.5}$ PSD Increment-SILs-SMC rule promulgated $PM_{2.5}$ SILs thresholds in the NNSR regulations at 40 CFR 51.165(b)(2). Alabama's May 2, 2011, submission also adopts the $PM_{2.5}$ SILs thresholds in their general permits provisions at rule 335–3–14–.03(1)(g)[21] to be consistent with amendments to 40 CFR 51.165(b) in the $PM_{2.5}$ PSD Increment-SILs-SMC Rule. In light of the facts that EPA did not request the court to remand and vacate language at 51.165(b) and that the agency has explained its authority to develop and promulgate SILs in the brief filed with the D.C. Circuit Court concerning the litigation, EPA is taking final action to approve Alabama's adoption of the $PM_{2.5}$ SILs thresholds at 335–3–14–.03(1)(g). EPA notes, however, that the SILs-SMC litigation is ongoing and therefore future Court action may require subsequent rule revisions and SIP submittals from the State of Alabama.

Finally, EPA is taking final action to approve Alabama's changes to the State's General and Transportation conformity regulations to be consistent with Federal regulations. These changes include updating the IBR date at 335–3–17.02 to July 1, 2010, to be consistent with Federal General Conformity rules (as promulgated on April 5, 2010) and to update the Transportation Conformity SIP at 335–3–17–.01 effective May 23, 2011, to include EPA's transportation conformity rule updates regarding

[19] In the preamble to the October 20, 2010, final rule EPA indicates that the Agency does not consider the SILs to be a mandatory SIP element, but regard them as discretionary on the part of regulating authority for use in the PSD permitting process. *See* 75 FR 64864 at 64899.

[20] EPA is currently developing guidance to provide a provisional course of action to implement the $PM_{2.5}$ SILs pending revision to implementing (k)(2) provisions and the litigation. The guidance will ensure that the $PM_{2.5}$ SILs are properly applied as part of a PSD compliance demonstration to show that a source's impact will not cause or contribute to a violation of the $PM_{2.5}$ NAAQS or increment.

[21] The provisions at 335–3–14–.03(1)(g) are consistent with SILs provisions at 40 CFR 51.165(b).

implementation of the $PM_{2.5}$ and PM_{10} nonattainment and maintenance areas.

III. Final Action

EPA is taking final action to approve portions of Alabama's May 2, 2011, SIP revisions (with the exception of the term ''particulate matter emissions,'' the NNSR revisions and the SILs threshold and provisions) adopting federal regulations amended in the NSR $PM_{2.5}$ and the $PM_{2.5}$ PSD Increment-SILs-SMC Rules to implement the $PM_{2.5}$ NAAQS for the NSR program because they are consistent with section 110 of the CAA and its regulations regarding NSR permitting.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 10, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

■ 2. Section 52.50(c) is amended under Chapters 335–3–14 and 335–3–17 by revising the entries for ''Section 335–3–14–.03,'' ''Section 335–3–14–.04,'' ''Section 335–3–17–.01,'' and ''Section 335–3–17–.02'' to read as follows:

§ 52.520 Identification of plan

* * * * *

(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter No. 335–3–14 Air Permits				
*	*	*	*	*
Section 335–3–14–.03.	Standards for Granting Permits.	May 23, 2011.	9–26–12 ..... [Insert citation of publication].	

EPA APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section 335–3–14–.04.	Air Permits Authorizing Construction in Clean Air Areas [:prevention of Significant Deterioration (PSD)].	May 23, 2011.	9–26–12 ..... [Insert citation of publication].	As of [Insert date of publication in FEDERAL REGISTER] Section 335–3–14–.04 does not include Alabama's revision to adopt the $PM_{2.5}$ SILs threshold and provisions (as promulgated in the October 20, 2010 $PM_{2.5}$ PSD Increment-SILs-SMC Rule at 40 CFR 1.166(k)(2) and the term ''particulate matter emissions'' (as promulgated in the May 16, 2008 NSR $PM_{2.5}$ Rule (at 40 CFR 51.166(b)(49)(vi)).
*	*	*	*	*
Chapter No. 335–3–17 Conformity of Federal Actions to State Implementation Plans				
Section 335–3–17.01.	Transportation Conformity	May 23, 2011.	9–26–12 ..... [Insert citation of publication].	
Section 335–3–17–.02.	General Conformity	May 23, 2011.	9–26–12 ..... [Insert citation of publication].	
*	*	*	*	*

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[FR Doc. 2012–23586 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0813; FRL–9363–6]

Glufosinate Ammonium; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of glufosinate ammonium in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) and Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 26, 2012 except for the addition of the tolerance for Fruit, stone, group 12–12 to the table in § 180.473 (a), which is effective October 22, 2012. Objections and requests for hearings must be received on or before November 26, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0813, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; email address: *jackson.sidney@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0813 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 26, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any CBI) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2

may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2009–0813, by one of the following methods:

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

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

II. Summary of Petitioned-for Tolerance

In the **Federal Registers** of January 6, 2010 (75 FR 864) (FRL–8801–5) and March 19, 2010 (75 FR 13277) (FRL–8813–2), EPA issued notices pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions; (PP 9E7604) by Interregional Research Project Number 4 (IR–4), IR–4 Project Headquarters, 500 College Road East, Suite 201 W, Princeton, NJ 08540 and (PP 9F7655) by Bayer CropScience LP, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709, respectively. The petitions requested that 40 CFR 180.473 be amended by establishing tolerances for residues of the herbicide glufosinate ammonium, butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-monoammonium salt, and its metabolites, 2-acetylamino-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid, calculated as the stoichiometric equivalent of 2-amino-4-(hydroxymethylphosphinyl), in or on corn, sweet, forage at 4.0 parts per million (ppm); corn, sweet, kernel plus cob with husks removed at 0.2 ppm; corn, sweet, stover at 6.0 ppm (PP 9E7604); citrus, fruit (crop group 10) at 0.05 ppm; olives at 0.05 ppm; pome, fruit (crop group 11) at 0.10 ppm; and stone fruit (crop group 12) at 0.10 ppm (PP 9F7655). These notices referenced a summary of the petition prepared by Bayer CropScience LP, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notices of filing.

Based upon review of the data supporting the petition, EPA is: (1) Correcting certain crop definitions to comply with current Agency policies; (2) establishing tolerance levels for certain commodities other than the proposed levels; (3) removing the proposed tolerance for plum, prune, dried; (4) modifying the crop group tolerances requested to the revised and expanded citrus fruit group 10–10, pome fruit group 11–10 and stone fruit group 12–12; and 5) revising the tolerance expression for all established commodities to be consistent with current Agency policy. The reasons for these changes are explained in Unit IV. C.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Technical grade glufosinate ammonium has low toxicity in the oral, dermal, inhalation studies and is not an eye or dermal irritant or a dermal sensitizer.

Subchronic toxicity studies in rats showed inhibition of glutamate synthetase and lead the Agency to conclude that the changes in brain glutamine synthetase activity are of significant concern for possible neurotoxicity and/or expression of clinical signs. Observed alterations in liver and kidney glutamate synthetase are considered an adaptive response. The primary effects in the mouse subchronic study were increased liver and kidney weights with increases in serum aspartate amino transferase and alkaline phosphatase.

Additional toxicity testing was conducted with the L-isomer of glufosinate ammonium, and degradates glufosinate propanoic acid (MPP), and 2-acetamido-4-methylphosphinico-butanoic acid (NAG). These compounds, tested in subchronic rat, mouse, and dog studies, and in developmental toxicity studies in rat and rabbit, are generally less toxic than the parent compound. However, L-isomer of glufosinate ammonium was found to be slightly more toxic than the racemic parent compound. This finding is not concern since this isomer is included in the toxicity testing of the parent compound at the levels in the technical material.

In chronic studies in the rat, inhibition of brain glutamine synthetase, increased mortality, and increased occurrence of retinal atrophy were noted, as were increased liver and kidney weights. In the mouse, increased mortality was noted, as were changes in glucose levels consistent with changes in glutathione levels. Increased mortality and electrocardiogram alterations were observed in dogs. The developmental toxicity study in the rat produced dilated renal pelvis and/or hydroureter in the fetuses at levels that produced significant increases in hyperactivity and vaginal bleeding in dams. In the rabbit, decreased fetal body weight and increased mortality were observed at 20 milligrams/kilogram/day (mg/kg/day), while in rabbit dams, decreased food consumption, body weight, and body weight gain were observed at 20 mg/kg/day. Since increased fetal mortality was observed in the presence of less severe maternal

toxicity in the rabbit developmental study, there is evidence of *qualitative* increased susceptibility in fetuses.

The reproductive toxicity study in rats indicated postnatal developmental toxicity at the highest dose tested in the form of decrease in viable pups. No parental toxicity was seen at the highest dose tested. Since pup mortality was observed in the absence of parental toxicity, there is evidence of *quantitative* increased susceptibility in offspring.

There were indications of neurotoxicity in several studies. Of particular concern is that the developmental neurotoxicity study demonstrated alterations in brain morphometrics in the adult offspring exposed *in utero* or during lactation at dose levels not associated with maternal toxicity. Retinal atrophy was observed in a rat oral study. In the 90-day dietary neurotoxicity study, increases in the incidence of decreased exploratory activity, decreased alertness, and decreased startle response, increased incidence of fearfulness, increased pain response and meiosis were reported. The subchronic dermal toxicity study indicated aggressive behavior, a high startle response and piloerection. The 28-day subchronic inhalation study demonstrated tono-clonic convulsions at the high dose in at least some males. However, in a 37-day dietary neurotoxicity study, there was no evidence of neurotoxicity at doses up to 143.3 mg/kg/day. There was no evidence of neurotoxicity in two acute neurotoxicity studies at doses up to 500 mg/kg/day. Also, there was no evidence of neurotoxicity in White Leghorn hens following an acute dose of up to 10,000 mg/kg. Changes in glutamine synthetase levels were observed in liver, kidney, and brain in rats. The altered electrocardiograms seen in the dog studies imply a possible neuromuscular effect.

There is no concern for immunotoxicity based on an adequate database.

There is no concern for mutagenic activity in several available studies including: Salmonella E. Coli, *in vitro* mammalian cell gene mutation assays, mammalian cell chromosome aberration assays, *in vivo* mouse bone marrow micronucleus assays, and unscheduled DNA synthesis assays.

Glufosinate ammonium was classified as ''not likely to be a human carcinogen.'' There was no evidence of a treatment-related increase in tumors in either rats or mice.

Specific information on the studies received and the nature of the adverse effects caused by glufosinate ammonium as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Glufosinate Ammonium. Updated Human Health Risk Assessment for the Proposed New Use of Glufosinate Ammonium in/on Citrus Fruit (Crop Group 10), Pome Fruit (Crop Group 11), Stone Fruit (Crop Group 12), Olives and Sweet Corn'', dated July 25, 2012 at page number 34 in docket ID number EPA–HQ–OPP–2009–0813.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for glufosinate ammonium used for human risk assessment is shown in the following Table.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR GLUFOSINATE AMMONIUM FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/Scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute Dietary (General Population, including Infants and Children).	No endpoint attributable to a single exposure was identified for the general population, including infants and children.		
Acute dietary (Females 13–50 years of age).	NOAEL = 6.3 mg/kg/day. UF_A = 10x ..... UF_H = 10x ..... FQPA SF = 1x	aRfD = 0.063 mg/kg/day. aPAD = 0.063 mg/kg/day.	Developmental Toxicity Study in Rabbits. LOAEL = 20 mg/kg/day based on increased fetal deaths.
Chronic dietary (All populations)	NOAEL = 6 mg/kg/day. UF_A = 10x ..... UF_H = 10x ..... FQPA SF = UF_L = 10x.	cRfD = cPAD = 0.006 mg/kg/day.	''Weight of evidence'' approach from four studies. Rat subchronic and chronic studies with the LOAEL based on inhibition of brain glutamate synthetase. A dog chronic study with the LOAEL based on altered electrocardiogram and mortality. The rat developmental neurotoxicity study with a LOAEL (without a NOAEL, basis for UF_L) based on altered morphometrics in the offspring as adults.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR GLUFOSINATE AMMONIUM FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/Scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Dermal short-term (1 to 30 days)	LOAEL= 14 mg/kg/ day (LDT). UF_A=10x ..... UF_H=10x ..... FQPA SF= UF_L= 10x.	LOC for MOE = 1,000.	Developmental Neurotoxicity Study in Rats LOAEL = 14 mg/kg/day based on brain morphometric changes at PND 72. No NOAEL identified.
Cancer (Oral, dermal, inhalation)	Classification: "Not likely to be Carcinogenic to Humans" based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). UF_L = use of a LOAEL to extrapolate a NOAEL.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to glufosinate ammonium, EPA considered exposure under the petitioned-for tolerances as well as all existing glufosinate ammonium tolerances in 40 CFR 180.473. EPA assessed dietary exposures from glufosinate ammonium in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for glufosinate ammonium for females 13 through 50 years old. In estimating acute dietary exposure assessment of glufosinate ammonium, EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database DEEM–FCID™, Version 3.10, which incorporates consumption data from USDA's National Health and Nutrition Examination Survey/''What We Eat in America'' (NHANES/WWEIA) dietary survey conducted in 2003–2008. The 2003–2008 data are based on the reported consumption of individuals over two non-consecutive survey days.

As to residue levels in food, EPA assumed tolerance level residues for all established and recommended tolerances along with default processing factors, and 100 percent crop treated (PCT) assumptions.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA also used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database DEEM–FCID™, Version 3.10.

As to residue levels in food, EPA used anticipated residues based on average residue levels from field trial studies. The DEEM default processing factors were used for all commodities except apple juice, pear juice, grape juice, and raisins, for which factors derived from the processing studies were used in the assessment. One hundred percent crop treated values were used for all proposed new uses and some registered uses. Average PCT estimates were used in the chronic dietary analysis for crops that are currently registered for glufosinate ammonium if available.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that glufosinate ammonium does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the average PCT for existing uses as follows: Almond: 15%; blueberry: 5%; field corn, 5%; grape, 15%; pecan, 1%; potato, 10%; soybean, 1%; walnut, 10%; canola, 25%; cotton, 5%; filbert, 10%; pistachio, 20%; and rice, 1%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data

for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which glufosinate ammonium may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used refined drinking water exposure models in the dietary exposure analysis and risk assessment for glufosinate ammonium. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of glufosinate ammonium. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Environmental fate studies indicate glufosinate ammonium is relatively stable and is very mobile. The main degradation pathway in water and soil is via microbial action, metabolizing primarily to CO_2, glufosinate propanoic acid (MPP), 2-methylphosphinico acetic acid (MPA), and 2-acetamido-4-methylphosphinico-butanoic acid (NAG). EPA recently reconsidered the appropriate residues of concern for drinking water to be used in risk assessment and determined that only the parent, glufosinate ammonium is the residue of concern for drinking water. Though MPA is a major degradate in some studies, a 90-day rat feeding study showed no effects at the highest dose tested which is about 100-fold higher than the NOAEL of the parent. Based on the rabbit developmental studies NAG is considered slightly less toxic than the parent. However, it was only observed as a major degradate during photolysis in soil; therefore, its exposure is significantly lower to that of the parent in drinking water. The parent glufosinate ammonium and MPP show different toxicities and therefore should not be aggregated. Moreover, the Agency has determined that the acute concentrations of MPP are not likely to be significantly greater than that of glufosinate in drinking water. However, given the minimal fate data available for MPP that indicates MPP does not degrade in aerobic aquatic environments, it is unclear if this will be true for chronic concentrations of MPP and glufosinate. Since MPP is considered less toxic than the parent compound and should not be aggregated with the parent, EPA concluded that if estimated drinking water concentrations (EDWCs) of MPP are not significantly greater than those for glufosinate, the risk assessment for the parent will be protective of any toxicity associated with exposure to MPP in drinking water.

Previous analyses for glufosinate ammonium demonstrated that the maximum acute and chronic EDWCs result from surface water estimates arising from the rice use; the surface water values for rice are nearly an order of magnitude higher than any surface or ground water values for any other use of glufosinate ammonium. Therefore, a comprehensive refinement of the drinking water assessment for the rice use of glufosinate ammonium, should be protective of other uses.

The Agency estimated acute EDWCs for glufosinate ammonium and MPP using the Tier I Rice Model and Pesticide Flooded Application Model (PFAM) [version 0.70] without the index reservoir. To estimate chronic EDWCs, the acute concentrations from PFAM without the index reservoir were assumed to degrade over a 365-day period, using aerobic aquatic degradation half-lives; thus allowing calculation of average concentrations over a one-year period. This method results in chronic values approximately 76% and 3% lower than the acute values for glufosinate-ammonium and MPP, respectively.

The EDWCs for surface water are expected to be 390 parts per billion (ppb) for glufosinate and 183 ppb for MPP for acute exposures. The EDWCs for surface water are expected to be 95 ppb for glufosinate and 177 ppb for MPP for chronic exposures. The maximum chronic EDWC for rice for MPP is approximately 2X higher than the corresponding value for glufosinate: 177 and 95 ppb, respectively. Since MPP is considered less toxic than the parent compound and should not be aggregated with the parent, EPA concluded that if the EDWCs for MPP are not significantly greater than those for glufosinate, the risk assessment for the parent will be protective of any toxicity associated with exposure to MPP in drinking water. Given the estimated EDWCs for MPP concentrations are not likely to be more than twice the corresponding levels of glufosinate in drinking water, EPA concluded a quantitative risk assessment for MPP in drinking water is not needed. Accordingly, for purposes of acute and chronic dietary analyses, the recommended glufosinate EDWCs are 390 and 95 ppb, respectively.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 390 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 95 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Glufosinate ammonium is currently registered for the following uses that could result in residential exposures: spot treatments of lawns and turf. EPA assessed residential exposure using the following assumptions:

Residential handler exposure is expected to be short-term. Intermediate-term exposures are not likely because of the intermittent nature of applications by homeowners. Dermal and inhalation exposures are possible for applications from mixing/loading/applying liquids with a hose-end sprayer, a backpack sprayer, and a sprinkler can and applications for manually pressurized handgun. However, only the dermal route of exposure was included in the aggregate analysis since potential dermal risks are higher than potential inhalation risks and the EPA determined it is not appropriate to aggregate the dermal and inhalation exposures since the toxicity endpoints are different.

The Agency did not quantify post-application exposures. Post-application exposure is expected to be minimal. Any exposure to children via incidental non-dietary ingestion (i.e., hand-to-mouth, object-to-mouth (turfgrass), and soil ingestion) after application to treated turf is expected to be low since

treatments to lawns and turf are limited to spot treatments.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* The reproductive toxicity study in rats indicated postnatal developmental toxicity at the highest dose tested in the form of decrease in viable pups. No parental toxicity was seen at the highest dose tested. Since pup mortality was observed in the absence of parental toxicity, there is evidence of *quantitative* increased susceptibility in offspring. Although in the rat developmental toxicity study dilated renal pelvis and hydroureter were observed in fetuses at 250 mg/kg/day, significant toxicity in the dams occurred at lower doses (vaginal bleeding and hyperactivity in the dams at 50 mg/kg/day), doses at which no developmental effects were observed. Therefore, no increased sensitivity was seen in this study.

Since increased fetal mortality was observed in the presence of less significant maternal toxicity in the rabbit developmental study, there is evidence of *qualitative* increased susceptibility in fetuses. Finally, the developmental neurotoxicity study demonstrated alterations in brain morphometrics in the adult offspring exposed *in utero* or during lactation at dose levels not associated with maternal toxicity. This shows quantitative sensitivity in the young.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA safety factor were reduced to 1X for acute dietary exposure. For all other exposure scenarios where the developmental neurotoxicity study or the 28-day inhalation study is used as an endpoint for risk assessment, EPA is retaining a 10X FQPA safety factor. That decision is based on the following findings:

i. Although all required studies for glufosinate ammonium have been submitted, the glufosinate ammonium database has a completeness issue in that the developmental neurotoxicity and the 28-day inhalation studies used for risk assessment did not demonstrate NOAELs, and LOAELs were used as endpoints. Therefore, the 10X FQPA safety factor was retained for use of a LOAEL to extrapolate a NOAEL. EPA has reduced the 10X safety factor when relying on a LOAEL in circumstances that suggest that the LOAEL is approaching a NOAEL (*e.g.,* very minimal effects seen at the LOAEL). EPA, however has no reliable data supporting selection of a different safety factor value other than the default value of 10X for glufosinate ammonium.

ii. Although there were indications of neurotoxicity in several studies, the PODs and safety factors chosen for risk assessment are protective for these effects. The developmental neurotoxicity study showed altered brain morphometrics at the LOAEL, and this study is used in the weight-of-the evidence decision-making process for selection of an endpoint. Applying the 10X FQPA Safety Factor for the LOAEL to NOAEL extrapolation, as well as the 10X inter- and intra-species uncertainty factors, to this LOAEL will be protective against possible neurotoxicity as indicated in the laboratory animal studies.

iii. Although there is evidence that glufosinate ammonium results in increased qualitative or quantitative susceptibility in the developmental neurotoxicity study (rats), a prenatal developmental study (rabbits), and in the 2-generation reproduction study (rats), the PODs selected for risk assessment are protective for these effects because they are either based on clear NOAELs for the effects in young animals or they are based on a LOAEL adjusted by a 10X safety factor to account for the lack of a NOAEL in that study.

iv. There are no residual uncertainties identified in the exposure databases. The acute dietary food exposure assessment was performed based on 100 PCT and tolerance-level residues. The chronic dietary exposure analysis was performed using anticipated residues from field trial data, processing factors, and PCT information. With limited monitoring data available, upper-bound assumptions were used to determine exposure through drinking water sources. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to glufosinate ammonium in drinking water. These assessments will not underestimate the exposure and risks posed by glufosinate ammonium.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to glufosinate ammonium will occupy 39% of the aPAD for females 13–49 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to glufosinate ammonium from food and water will utilize 98% of the cPAD for all infants (<1 year old) the population group

receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of glufosinate ammonium is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Glufosinate ammonium is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to glufosinate ammonium.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 1,800 for the general population for mixer/loader/applicators. Because EPA's level of concern for glufosinate ammonium is an MOE of 1,000 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, glufosinate ammonium is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for glufosinate ammonium.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, glufosinate ammonium is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to glufosinate ammonium residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Two analytical methods have been validated by EPA for enforcement of the currently established tolerances: (1) Method HRAV–5A for the determination of glufosinate ammonium and glufosinate propanoic acid in/on apple, grape, almond, soybean seed, corn grain, and corn forage, and (2) Method BK/01/99 for determination of glufosinate ammonium, *N*-acetyl-glufosinate, and glufosinate propanoic acid in/on canola seed and sugar beet root.

Based on the similarity in the two methods and the results from the petition method validations (PMVs), EPA concludes that method BK/01/99 is a suitable method for enforcement of sweet corn, stone fruit, pome fruit, citrus fruit, and olive tolerances.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

The Codex has not established MRLs for glufosinate ammonium in or on olives and sweet corn commodities. However, for glufosinate ammonium in or on citrus fruit, pome fruit, and stone fruit, Codex has set MRLs of 0.1, 0.05, and 0.05 ppm, respectively. EPA is establishing tolerances in this action for citrus fruit, pome fruit, and stone fruit, at 0.15, 0.25, and 0.25 ppm, respectively. EPA cannot harmonize these tolerance values with the Codex MRLs because the lower MRLs could be exceeded with the uses petitioned-for in this action.

C. Revisions to Petitioned-for Tolerances

EPA modified/revised certain IR–4 proposed tolerances for glufosinate ammonium residues. Higher tolerance levels were established for citrus, pome fruit, stone fruit, and olives because EPA concluded that it was appropriate to sum the full level of quantification (LOQ) for each of the three residues of concern in situations where < LOQ residue levels were found. Sweet corn tolerances were amended based on results from the Organization for Economic Co-operation and Development (OECD) tolerance calculation procedures the corn, sweet, K+CWHR tolerance proposed at 0.2 ppm will be established at 0.30 ppm, corn, sweet, forage tolerance proposed at 4.0 ppm will be established at 1.5 ppm. A separate prune tolerance was established as residues in this processed commodity are covered by the stone fruit group tolerance.

Additionally, EPA was petitioned for tolerances on citrus fruit group 10, pome fruit group 11, and stone fruit group 12. In the **Federal Register** of December 8, 2010 (75 FR 76284) (FRL–8853–8) and Wednesday, August 22, 2012, EPA issued final rules that revised the crop grouping regulations. As part of those actions, EPA expanded and revised the existing citrus fruit group, pome fruit group, and stone fruit group. The revised crop groups are designated as citrus fruit group 10–10, pome fruit group 11–10, and stone fruit group 12–12. As noted in the two crop group rulemakings, it is EPA policy to attempt to conform petitions for crop group tolerances filed prior the finalization of amendments to crop groups to the crop groups, as revised. This was possible in this case because the representative commodities for the crop groups did not change and the increased exposure as a result of the expanded crop groups could be assessed as part of review of the petition. Therefore, consistent with this policy, EPA has assessed and is establishing a tolerance on citrus fruit group 10–10, pome fruit group 11–10, and stone fruit group 12–12.

Finally, EPA has revised the tolerance expression to clarify (1) that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of glufosinate ammonium not specifically mentioned; and (2) that compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl) monoammonium salt) and its metabolites, 2-(acetylamino)-4-(hydroxymethyl phosphinyl) butanoic acid, and 3-(hydroxymethylphosphinyl) propanoic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl)butanoic acid equivalents in or on corn, sweet, forage at 1.5 ppm; corn, sweet, kernels plus cob with husks removed at 0.30 ppm; corn, sweet, stover at 6.0 ppm; fruit, citrus, group 10–10 at 0.15 ppm; fruit, pome, group 11–10 at 0.25 ppm; fruit, stone, group 12–12 at 0.25 ppm; and olive at 0.15 ppm.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 19, 2012.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticides Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.473 is amended as follows:

■ i. Revise the introductory text in paragraphs (a) and (d).

■ ii. Add alphabetically the following commodities to the table in paragraph (a).

The revised and added text reads as follows:

§ 180.473 Glufosinate ammonium; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide glufosinate ammonium, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring the sum of glufosinate ammonium, butanoic acid, 2-amino-4-(hydroxymethylphosphinyl) monoammonium salt, and its metabolites, 2-(acetylamino)-4-(hydroxymethyl phosphinyl)butanoic acid, and 3-(hydroxymethylphosphinyl)propanoic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl)butanoic acid equivalents:

Commodity	Parts per million
* * * * *	
Corn, sweet, forage	1.5
Corn, sweet, kernels plus cob with husks removed	0.30
Corn, sweet, stover	6.0
* * * * *	
Fruit, citrus, group 10–10	0.15
Fruit, pome, group 11–10	0.25
Fruit, stone, group 12–12	0.25
* * * * *	
Olive	0.15
* * * * *	

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of glufosinate ammonium, including its metabolites and degradates, in or on the commodities in the table below, as a result of the application of glufosinate ammonium to crops listed in paragraph (a) of this section. Compliance with the tolerance levels specified below is to be determined by measuring the sum of glufosinate ammonium, butanoic acid, 2-amino-4-(hydroxymethylphosphinyl) monoammonium salt, and its metabolite, 3-(hydroxymethylphosphinyl) propanoic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl)butanoic acid equivalents.

* * * * *

[FR Doc. 2012–23738 Filed 9–25–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0906; FRL–9361–8]

Cyazofamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyazofamid in or on multiple commodities which are identified and discussed later in this document. This regulation additionally removes several established tolerances that are superseded by tolerances established by this regulation. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 26, 2012 Objections and requests for hearings must be received on or before November 26, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–0906, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7390; email address: *nollen.laura@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0906 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 26, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0906, by one of the following methods:

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

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

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of December 8, 2011 (76 FR 76674) (FRL–9328–8), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1E7929) by IR–4, 500 College Road East, Suite 201W., Princeton, NJ 08540. The petition requested that 40 CFR 180.601 be amended by establishing tolerances for residues of the fungicide cyazofamid, 4-chloro-2-cyano-*N, N*-dimethyl-5-(4-methylphenyl)-1*H*-imidazole-1-sulfonamide, and its metabolite CCIM, 4-chloro-5-(4-methylphenyl)-1*H*-imidazole-2-carbonitrile (CA), expressed as cyazofamid, in or on basil, dried leaves at 80.0 parts per million (ppm); basil, fresh leaves at 30.0 ppm; bean, succulent at 0.4 ppm; bean, succulent, shelled at 0.07 ppm; leafy greens, subgroup 4A at 9.0 ppm; vegetable, fruiting, group 8–10 at 0.40 ppm; and vegetable, tuberous and corm, subgroup 1C at 0.02 ppm. Additionally, the notice requested that EPA remove the tolerances in 40 CFR 180.601 for residues of the fungicide cyazofamid and its metabolite CCIM, expressed as cyazofamid, in or on okra at 0.40 ppm; potato at 0.02 ppm; spinach at 9.0 ppm; and vegetable, fruiting, group 8 at 0.40 ppm, as they will be superseded by inclusion in crop group or subgroup tolerances. That notice referenced a summary of the petition prepared on behalf of IR–4 by ISK Biosciences, the registrant, which is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has revised the proposed tolerance levels for several commodities. The Agency has also determined that the time-limited tolerance on basil, fresh should be

removed. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Cyazofamid has a low order of acute toxicity via the oral, dermal, and inhalation routes of exposure. It produces minimal but reversible eye irritation, is a slight dermal irritant, and is a weak dermal sensitizer. In subchronic toxicity studies in rats, the kidney appeared to be the primary target organ, with kidney effects including an increased number of basophilic kidney tubules and mild increases in urinary volume, pH, and protein. However, no adverse kidney effects were noted in chronic toxicity studies in rats. There were no toxicity findings up to the limit dose in a subchronic toxicity study in dogs; in the chronic dog toxicity study, increased cysts in parathyroids were observed in males at the limit dose for chronic toxicity testing.

There were no maternal or developmental effects observed in the prenatal developmental toxicity study in rabbits and no maternal, reproductive, or offspring effects in the 2-generation reproductive toxicity study in rats. There was evidence of increased susceptibility following *in utero* exposure of rats in the prenatal developmental toxicity study at the highest dose tested; developmental effects, including an increased incidence of bent ribs, were observed in the absence of maternal toxicity.

There was no evidence of neurotoxicity or evidence of biologically relevant structural effects on the immune system in any study in the exposure database for cyazofamid. Skin lesions, which may be due to a systemic allergy, were observed in male mice in a carcinogenicity study. There was no evidence of carcinogenicity in the rat or mouse carcinogenicity studies and no evidence that cyazofamid is mutagenic in several *in vivo* and *in vitro* studies. Based on the results of these studies, EPA has classified cyazofamid as ''not likely to be carcinogenic to humans.''

Specific information on the studies received and the nature of the adverse effects caused by cyazofamid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document, ''Cyazofamid. Human Health Risk Assessment for Proposed New Uses on Leafy Greens (Crop Subgroup 4A), Succulent-Podded and Succulent-Shelled Beans, Basil, Tuberous and Corm Vegetables (Subgroup 1C), and Fruiting Vegetables (Crop Group 8–10) with Updated Residential Risk Estimates of All Existing Residential Uses'' at pp. 32–36 in docket ID number EPA–HQ–OPP–2011–0906.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for cyazofamid used for human risk assessment is shown in Table 1 of this unit. EPA notes that the last final rule for cyazofamid, published in the **Federal Register** of July 14, 2010 (75 FR 40745) (FRL–8833–1), included endpoints and points of departure for intermediate-term residential scenarios, including postapplication incidental oral exposure for children and dermal exposures for adults. However, the Agency has reevaluated these scenarios and has determined that residential exposure to turf and ornamentals is not likely to occur over an intermediate-term duration (i.e., 1 month to 6 months) for cyazofamid. Additionally, the Agency notes that the last final rule did not include an assessment of adult residential handler exposures. While the label for cyazofamid includes a statement that application by homeowners to residential turf is prohibited, it does not identify the product as a restricted use; therefore, a residential handler exposure assessment for short-term dermal and inhalation exposures was performed to be protective of potential residential handler exposures.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR CYAZOFAMID FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/Scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children).	An appropriate endpoint for a single exposure was not identified for the general population.		
Acute dietary (Females 13–49 years of age).	NOAEL = 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 1.0 mg/kg/day. aPAD = 1.0 mg/kg/day	Rat Prenatal Developmental Toxicity Study. LOAEL = 1,000 mg/kg/day based on developmental toxicity findings of increased incidence of bent ribs.
Chronic dietary (All populations)	NOAEL= 94.8 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 0.948 mg/kg/day. cPAD = 0.948 mg/kg/day	18-Month Mouse Oral Carcinogenicity Study. LOAEL = 985 mg/kg/day based on increased skin lesions.
Incidental oral, short-term (1 to 30 days).	NOAEL= 30 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	90-Day Rat Oral Toxicity Study. LOAEL = 295 mg/kg/day based on increased number of basophilic tubules of the kidneys, increased urinary volume, pH, and protein. This toxicity endpoint is also supported by the results of a 28-Day Oral Dose Range-Finding Study in rats. In this study, at 370 mg/kg/day or above increased incidence of basophilic tubules in the kidneys was found.
Dermal, short-term (1 to 30 days).	For children: No toxicity was found at 1,000 mg/kg/day in a 28-Day Dermal Toxicity Study; therefore, in the absence of hazard identified for this population, a dermal risk assessment is not necessary.		
	For adults: Dermal (or oral) study NOAEL = 100 mg/kg/day (dermal absorption rate = 37%). UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Rat Prenatal Developmental Toxicity Study. LOAEL = 1,000 mg/kg/day based on developmental toxicity findings of increased incidence of bent ribs.
Inhalation, short-term (1 to 30 days).	Inhalation (or oral) study NOAEL= 100 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Rat Prenatal Developmental Toxicity Study. LOAEL = 1,000 mg/kg/day based on developmental toxicity findings of increased incidence of bent ribs.
Cancer (Oral, dermal, inhalation).	Classification: "Not likely to be carcinogenic to humans" based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to cyazofamid, EPA considered exposure under the petitioned-for tolerances as well as all existing cyazofamid tolerances in 40 CFR 180.601. EPA assessed dietary exposures from cyazofamid in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. EPA identified such an effect (increased incidence of bent ribs in the rat prenatal developmental toxicity study) for the population subgroup females 13 to 49 years old; however, no such effect was identified for the general population, including infants and children.

In estimating acute dietary exposure for females 13 to 49 years old, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994 to 1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed tolerance-level residues, DEEM™ ver. 7.81 default processing factors and 100 percent crop treated (PCT) for all existing and proposed commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994 to 1996 and 1998 CSFII. As to residue levels in food, EPA assumed tolerance-level residues, DEEM™ ver. 7.81 default processing factors and 100 PCT for all existing and proposed commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that cyazofamid does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the

purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for cyazofamid. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* Available environmental fate studies suggest cyazofamid is not very mobile and quickly degrades into a number of degradation products under different environmental conditions. Among the three major degradates for cyazofamid (CCIM, CCIM–AM, and CTCA), the two terminal degradates are CCIM and CTCA. The highest estimated drinking water concentrations resulted from modeling which assumed application of 100% molar conversion of the parent into the terminal degradate CTCA. EPA used these estimates of CTCA in its dietary exposure assessments, a conservative approach that likely overestimates the exposure contribution from drinking water.

The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for cyazofamid and its degradates in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of cyazofamid and its degradates. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) model for surface water and the Screening Concentration in Ground Water (SCI–GROW) model for ground water, the estimated drinking water concentrations (EDWCs) of CTCA for acute exposures are estimated to be 136 parts per billion (ppb) for surface water and 2.18 ppb for ground water. Chronic exposures for noncancer assessments are estimated to be 133 ppb for surface water and 2.18 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 136 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 133 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Cyazofamid is currently registered for use on turf at golf courses, sod farms, seed farms, college and professional sports fields, residential and commercial lawns, and on ornamental plants in landscapes and those grown in commercial greenhouses and nurseries. EPA assessed residential exposure using the following assumptions: For adult handlers, short-term dermal and inhalation exposures from mixing, loading, and applying cyazofamid in residential areas; for adults, short-term postapplication dermal exposure from contact with treated turf and ornamentals; and for children, short-term postapplication incidental oral exposure to treated turf, including hand-to-mouth activity, object-to-mouth activity, and soil ingestion. No POD was identified for dermal exposures to treated turf for children, since no toxicity was seen in the 28-day dermal toxicity study at the highest dose tested (1,000 milligrams/kilograms/day (mg/kg/day)); therefore, dermal postapplication exposure scenarios were not assessed for children. Based on the residential use profile, adult handler and adult and child postapplication exposures to cyazofamid are expected to be short-term only. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* The prenatal and postnatal toxicology database for cyazofamid includes rat and rabbit developmental toxicity studies and a 2-generation reproductive toxicity study in rats. There was no indication of increased susceptibility, as compared to adults, of rabbit fetuses to *in utero* exposure in a developmental study or of rat pups in the 2-generation reproduction study. There is evidence of increased quantitative susceptibility following *in utero* exposure of rats to cyazofamid in the prenatal developmental study; an increased incidence of bent ribs in fetuses at the highest dose tested was noted in the absence of maternal effects.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for cyazofamid is complete except for immunotoxicity and subchronic neurotoxicity testing. Recent changes to 40 CFR part 158 imposed new data requirements for immunotoxicity testing (OCSPP Test Guideline 870.7800) and subchronic neurotoxicity testing (OCSPP Test Guideline 870.6200) for pesticide registration. However, the available data for cyazofamid do not show potential for immunotoxicity. Further, there is no evidence of neurotoxicity in any study in the toxicity database for cyazofamid. EPA does not believe that conducting neurotoxicity and immunotoxicity studies will result in a NOAEL lower than the regulatory dose for risk assessment. Consequently, the EPA believes the existing data are sufficient for endpoint selection for exposure/risk assessment scenarios and for evaluation

of the requirements under the FQPA, and an additional database uncertainty factor does not need to be applied.

ii. There is no indication that cyazofamid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. Although there is evidence of increased quantitative susceptibility in the prenatal developmental study in rats, the Agency determined that concern is low because the developmental effect (increased bent ribs) is well identified with a clear NOAEL and LOAEL. In addition, other considerations indicating a low concern include the following: Increased bent ribs are considered a reversible variation rather than a malformation; the effect was noted only at the limit dose of 1,000 mg/kg/day and this endpoint was used to establish the RfD for females 13–49; and the overall toxicity profile indicates that cyazofamid is not a very toxic compound. Therefore, there are no residual concerns regarding developmental effects in the young.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to cyazofamid in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by cyazofamid.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, cyazofamid is not expected to pose an acute risk. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to cyazofamid will occupy 2.5% of the aPAD for females 13 to 49 years old, the population group of concern for acute effects.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to cyazofamid from food and water will utilize 1.5% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of cyazofamid is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Cyazofamid is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to cyazofamid.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 2,200 for children 1–2 years old and 390 for adults. Because EPA's level of concern for cyazofamid is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term adverse effect was identified; however, cyazofamid is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for cyazofamid.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, cyazofamid is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to cyazofamid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate analytical methodology is available to enforce the proposed tolerances. Cyazofamid and the metabolite CCIM are completely recovered (>80% recovery) using the Food and Drug Administration's (FDA) Multi-Residue Protocol D (without cleanup). In addition, a high performance liquid chromatography/ultraviolet detector (HPLC/UV) method is available for use as a single analyte confirmatory method.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for cyazofamid.

C. Response to Comments

EPA received comments from a private citizen to the notice of filing for cyazofamid, PP# 1E7929, objecting to the establishment of tolerances associated with the petition. In addition, the commenter noted several adverse effects seen in animal toxicology studies

for cyazofamid and claims because of these effects no tolerance should be approved.

EPA has found, however, that there is a reasonable certainty of no harm to humans after considering these toxicological studies and the exposure levels of humans to cyazofamid. The Agency understands the commenter's concerns and recognizes that some individuals believe that certain pesticide chemicals should not be permitted in our food. However, the existing legal framework provided by FFDCA section 408 states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This citizen's comment appears to be directed at the underlying statute and not EPA's implementation of it; the citizen has made no contention that EPA has acted in violation of the statutory framework.

D. Revisions to Petitioned-for Tolerances

Based on the data supporting the petition, EPA revised the proposed tolerances on several commodities, as follows: Basil, dried leaves from 80 ppm to 90 ppm; bean, succulent from 0.4 ppm to 0.5 ppm; bean, succulent shelled from 0.07 ppm to 0.08 ppm; leafy greens subgroup 4A from 9.0 ppm to 10 ppm; and vegetable, fruiting, group 8–10 from 0.40 ppm to 0.9 ppm. The Agency revised these tolerance levels based on analysis of the residue field trial data using the Organization for Economic Cooperation and Development (OECD) tolerance calculation procedures. Additionally, the Agency has determined that the time-limited tolerance on basil, fresh at 12 ppm should be removed, as it will be superseded by the permanent tolerance on basil, fresh leaves.

V. Conclusion

Therefore, tolerances are established for residues of cyazofamid, 4-chloro-2-cyano-*N,N*-dimethyl-5-(4-methylphenyl)-1 *H*-imidazole-1-sulfonamide, and its metabolite, 4-chloro-5-(4-methylphenyl)-1*H* -imidazole-2-carbonitrile, calculated as the stoichiometric equivalent of cyazofamid, in or on basil, dried leaves at 90 ppm; basil, fresh leaves at 30 ppm; bean, succulent at 0.5 ppm; bean, succulent shelled at 0.08 ppm; leafy greens subgroup 4A at 10 ppm; vegetable, fruiting, group 8–10 at 0.9 ppm; and vegetable, tuberous and corm, subgroup 1C at 0.02 ppm. This regulation additionally removes the established permanent tolerances on okra, potato, spinach, and fruiting vegetable group 8, and the time-limited tolerance on basil, fresh because these tolerances are superseded by new crop group or subgroup tolerances established by this action.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 12, 2012.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.601:

■ a. Remove the commodities ''Okra'', ''Potato'', ''Spinach'', and ''Vegetable, fruiting, group 8'' from the table in paragraph (a).

■ b. Add alphabetically the following commodities to the table in paragraph (a).

■ c. Remove the commodity ''Basil, fresh'' from the table in paragraph (b).

The additions read as follows:

§ 180.601 Cyazofamid; tolerances for residues.

(a) * * *

Commodity	Parts per million
Basil, dried leaves	90
Basil, fresh leaves	30
Bean, succulent	0.5

Commodity	Parts per million
Bean, succulent shelled	0.08
* * * * *	
Leafy greens subgroup 4A	10
* * * * *	
Vegetable, fruiting, group 8–10	0.9
Vegetable, tuberous and corm, subgroup 1C	0.02

* * * * *

[FR Doc. 2012–23355 Filed 9–25–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0171; FRL–9358–8]

RIN 2070–ZA16

Butylate, Clethodim, Dichlorvos, Dicofol, Isopropyl Carbanilate, et al.; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking specific tolerances, in follow-up to canceled uses or where a commodity is no longer a significant feed item, for butylate, clethodim, dichlorvos, dicofol, isopropyl carbanilate, methanearsonic acid, methomyl, naled, primisulfuron-methyl, tralomethrin, and ziram, and the tolerance exemption for pine oil. However, EPA will not revoke the dicofol tolerances on tea and tolerance exemptions for rotenone, derris, or cube roots at this time. Also, EPA is making minor revisions to the tolerance expressions for dicofol, methanearsonic acid, methomyl, and tralomethrin, revising the nomenclature of specific tolerances for butylate, methomyl, and tralomethrin, and removing expired tolerances for certain pesticide active ingredients, in accordance with current EPA practice. In addition, EPA is reinstating popcorn tolerances for metolachlor to remedy an inadvertent omission and cover existing registrations.

DATES: This regulation is effective March 25, 2013. Objections and requests for hearings must be received on or before November 26, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0171, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; email address: *nevola.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

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

Under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0171 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 26, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any CBI) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0171, by one of the following methods:

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

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

II. Background

A. What action is the agency taking?

In the **Federal Register** of May 9, 2012 (77 FR 27164) (FRL–9345–2), EPA issued a proposed rule, in follow-up to canceled uses or where a commodity is no longer a significant feed item, to revoke specific tolerances for butylate, clethodim, dichlorvos, dicofol, isopropyl carbanilate, methanearsonic acid, methomyl, naled, primisulfuron-methyl, tralomethrin, and ziram, and tolerance exemptions for rotenone, derris, cube roots, and pine oil. Also, it proposed minor revisions to the tolerance expressions for dicofol,

methanearsonic acid, methomyl, and tralomethrin, revisions to the nomenclature of specific tolerances for butylate, methomyl, and tralomethrin, and removal of expired tolerances for certain pesticide active ingredients, in accordance with current EPA practice. In addition, it proposed to reinstate popcorn tolerances for metolachlor to remedy an inadvertent omission and cover existing registrations. Also, the proposed rule of May 9, 2012 provided a 60-day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

In this final rule, EPA is finalizing these tolerance actions, with the exception of the proposed revocations of tolerance exemptions for rotenone, derris, and cube roots, revocation of the dicofol tolerances on tea, and date of expiration/revocation proposed for the methomyl tolerance on grape. EPA is revoking tolerances for butylate, clethodim, dichlorvos, dicofol, isopropyl carbanilate, methanearsonic acid, methomyl, naled, primisulfuron-methyl, tralomethrin, and ziram, and the tolerance exemption for pine oil. The tolerance and tolerance exemption revocations for dichlorvos, naled, and pine oil are consistent with the recommendations in their individual Reregistration Eligibility Decisions (REDs) of 2006.

As part of the tolerance reassessment process, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each RED for the active ingredient. REDs recommend the implementation of certain tolerance actions, including modifications, to reflect current use patterns, to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419; telephone number: 1–800–490–9198; fax number: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov.* Electronic copies of REDs are available on the Internet at *http://www.regulations.gov* and *http://www.epa.gov/pesticides/reregistration/status.htm.*

In this final rule, EPA is revoking certain tolerances and/or tolerance exemptions because either they are no longer needed or are associated with food uses that are no longer registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in the United States. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide active ingredient. The tolerances revoked by this final rule are no longer necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. It is EPA's general practice to issue a final rule revoking those tolerances and tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance or tolerance exemption to cover residues in or on imported commodities or legally treated domestic commodities.

EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States.

Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed in Unit II.A. if one of the following conditions applies:

1. Prior to EPA's issuance of a FFDCA section 408(f) order requesting additional data or issuance of a FFDCA section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained.

2. EPA independently verifies that the tolerance is no longer needed.

3. The tolerance is not supported by data that demonstrate that the tolerance meets the requirements under Food Quality Protection Act (FQPA).

This final rule does not revoke those tolerances or tolerance exemptions for which EPA received comments stating a need for the tolerance or tolerance exemption to be retained. Among the comments received by EPA, are the following:

i. *Dicofol—Comment by Tea Association of the U.S.A., Inc.* The commenter stated that dicofol is used in tea production in countries such as India, China, and Argentina, and requested that EPA not revoke the dicofol tolerances on tea but maintain them for importation purposes.

Agency response. EPA will not revoke the dicofol tolerances in 40 CFR 180.163(a)(1) on ''tea, dried'' and ''tea, plucked leaves'' at this time. EPA will address the tea tolerances and the comment received on them in a future document to be published in the **Federal Register**. However, EPA is finalizing all other amendments (including all other tolerance revocations) proposed concerning dicofol in the **Federal Register** of May 9, 2012 (77 FR 27164).

ii. *Methomyl—Comments by DuPont Crop Protection and the California Grape and Tree Fruit League (CGTFL).* DuPont Crop Protection commented that one year is not sufficient time to exhaust methomyl existing stocks for use on grapes. DuPont requested that EPA extend the expiration/revocation date for the methomyl tolerance on grape by a minimum of 3 years (from June 8, 2013 to June 8, 2016). The CGTFL represents California's table grape and deciduous tree fruit growers, packers, and shippers. The CGTFL requested additional time to exhaust existing stocks and suggested a more appropriate expiration/revocation date for the methomyl tolerance on grape would be December 31, 2020.

Agency response. Based upon the comments received by EPA regarding requests for additional time to exhaust existing methomyl end-use stocks for use in or on grapes, and on the Agency's review of methomyl use, EPA is extending the expiration/revocation of the methomyl tolerance in 40 CFR 180.253(a) on grape by more than 3 years from June 8, 2013 to December 31, 2016.

iii. *Rotenone—Comments by CERES GmbH, Frutban S.A., Dole Fresh Fruit International, Ltd. (DFFI), and DFFI-Costa Rica.* Multiple comments from CERES GmbH (a company headquartered in Germany which offers international certification for organic farming and food processing), Frutban S.A. (an organic banana farm in Ecuador), DFFI, and DFFI-Costa Rica, were received which expressed concerns with EPA's proposal to revoke the U.S. tolerance exemptions for rotenone based insecticides. The commenters stated that there are lots of farmers (especially organic farmers) who rely on rotenone based insecticides on various commodities imported into the United States.

Agency response. Based on the multiple comments by CERES GmbH, Frutban S.A., DFFI, and DFFI-Costa Rica, which stated a continued need for the tolerance exemptions for rotenone for importation purposes into the United States, EPA will not revoke the

tolerance exemptions in 40 CFR 180.905 (when applied to growing crops in accordance with good agricultural practice) for rotenone or derris or cube roots at this time. However, because there are no longer any active food-use registrations in the United States and no comments were received by EPA which expressed a need for more time to exhaust existing stocks for domestic use, EPA is not changing its previous determination (as stated in the proposed rule of May 9, 2012) that existing stocks in the United States will be exhausted by August 11, 2012. EPA will note in 40 CFR 180.905 that the tolerance exemptions for rotenone, derris, and cube roots have no U.S. registrations as of March 23, 2011. Also, retaining these tolerance exemptions may require submission of data to demonstrate their safety. EPA believes that residue data from foreign countries, and perhaps other data, may be needed to support import tolerance exemptions for rotenone or derris or cube roots. For example, domestic U.S. residue data are not likely to be representative of growing conditions and use patterns in other countries. EPA published guidances on pesticide import tolerances and residue data for imported food in the **Federal Register** notices of April 5, 2006 (71 FR 17099) (FRL–7772–1) and June 1, 2000 (65 FR 35069) (FRL–6559–3).

EPA did not receive any specific comments, during the 60-day comment period, on the following pesticide active ingredients: Butylate, clethodim, dichlorvos, (dicofol with the exception of tea), isopropyl carbanilate, naled, primisulfuron-methyl, tralomethrin, and ziram, and pine oil, and any of the active ingredients associated with the removal of expired tolerances. Therefore, with the exception of the changes described in the Agency responses to comments in this final rule, EPA is finalizing the amendments proposed concerning the pesticide active ingredients in the **Federal Register** of May 9, 2012 (77 FR 27164) (FRL–9345–2). For a detailed discussion of the Agency's rationale for the finalized tolerance actions, refer to the proposed rule of May 9, 2012.

B. What is the agency's authority for taking this action?

EPA may issue a regulation establishing, modifying, or revoking a tolerance under FFDCA section 408(e). In this final rule, EPA is revoking tolerances as follow-up on canceled uses of pesticides, which is consistent with the tolerance recommendations made in certain REDs.

C. When do these actions become effective?

As stated in the **DATES** section, this regulation is effective 180 days after the date of publication in the **Federal Register**. EPA is delaying the effective date of these finalized actions to allow a reasonable interval for producers in exporting members of the World Trade Organization's Sanitary and Phytosanitary Measures Agreement to adapt to the requirements of a final rule. With the exception of butylate, dicofol, methanearsonic acid (and salts), methomyl, tralomethrin, and ziram, EPA believes that existing stocks of the canceled or amended pesticide products labeled for the uses associated with the revoked tolerances and tolerance exemptions have been completely exhausted and that treated commodities have had sufficient time for passage through the channels of trade. EPA is revoking certain tolerances for butylate, dicofol, methanearsonic acid (and salts), methomyl, tralomethrin, and ziram with expiration/revocation dates. EPA believes that these revocation dates allow users to exhaust stocks and allow sufficient time for passage of treated commodities through the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

III. International Residue Limits

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

The Codex has not established a MRL for butylate, isopropyl carbanilate (also called propham), methanearsonic acid (and salts), metolachlor, naled, pine oil, primisulfuron-methyl, rotenone (or derris or cube roots), tralomethrin, or MRL for clethodim in or on soybean soapstock, or MRL for dichlorvos on tomato.

The Codex has not established a MRL for ziram per se, but has MRLs for total dithiocarbamates (which includes the dithiocarbamate ziram), determined as carbon disulfide. However, there is no MRL for total dithiocarbamates in or on blackberry.

The Codex has established a MRL for methomyl in or on grapes at 5 milligrams/kilogram (mg/kg). This MRL is the same as the tolerance established for methomyl on grapes in the United States.

The Codex has established MRLs for dicofol in or on cattle meat at 3 mg/kg, eggs at 0.05 mg/kg, poultry meat and cottonseed at 0.1 mg/kg, and cherries at 5 mg/kg. These MRLs and some others are the same as the tolerances established for dicofol in the United States.

The Codex has established MRLs for dicofol in or on various other commodities, including beans, dry at 0.1 mg/kg, citrus fruits at 5 mg/kg, hops, dry at 50 mg/kg, melons, except watermelon at 0.2 mg/kg, pecans and walnuts at 0.01 mg/kg, and peppers and summer squash at 1 mg/kg. These MRLs are all covered by U.S. tolerances at higher levels. These MRLs are different than the tolerances established for dicofol in the United States because of differences in use patterns and/or good agricultural practices.

IV. Statutory and Executive Order Reviews

In this final rule, EPA revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58

FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*). Nor does it require any special considerations as required by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020) (FRL–5753–1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis and available information concerning the pesticides listed in this rule, the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of the proposed rule, as mentioned in Unit II.A.). Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 18, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.116 is amended by revising the table in paragraph (a) to read as follows:

§ 180.116 Ziram; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/ revocation date
Almond	[1] 0.1	None
Apple	[1] 7.0	None
Apricot	[1] 7.0	None
Blackberry	[1] 7.0	5/11/13
Blueberry	[1] 7.0	None
Cherry, sweet	[1] 7.0	None
Cherry, tart	[1] 7.0	None
Grape	7.0	None
Huckleberry	7.0	None
Peach	7.0	None
Pear	[1] 7.0	None
Pecan	0.1	None
Quince	[1] 7.0	None
Strawberry	7.0	None
Tomato	[1] 7.0	None

[1] Some of these tolerances were established on the basis of data acquired at the public hearings held in 1950 (formerly § 180.101) and the remainder were established on the basis of pesticide petitions presented under the procedure specified in the amendment to the Federal Food, Drug, and Cosmetic Act by Public Law 518, 83d Congress (68 Stat. 511).

* * * * *

§§ 180.133 and 180.144 [Removed]

■ 3. Sections 180.133 and 180.144 are removed.

■ 4. Section 180.163 is amended by revising the section heading and paragraph (a) to read as follows:

§ 180.163 Dicofol; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide dicofol, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only dicofol as the sum of its p,p-dicofol and o,p-dicofol isomers: 4-chloro-α-(4-chlorophenyl)-α-(trichloromethyl)benzenemethanol and 2-chloro-α-(4-chlorophenyl)-α-(trichloromethyl)benzenemethanol, in or on the commodity.

Commodity	Parts per million	Expiration/ revocation date
Apple, wet pomace	38.0	10/31/16
Bean, dry, seed	0.5	10/31/16
Bean, succulent	3.0	10/31/16
Butternut	0.1	10/31/16
Caneberry subgroup 13A	5.0	10/31/16
Chestnut	0.1	10/31/16
Citrus, dried pulp	12.0	10/31/16
Citrus oil	200.0	10/31/16
Cotton, refined oil	0.5	10/31/16
Cotton, undelinted seed	0.1	10/31/16
Fruit, citrus, group 10	6.0	10/31/16
Fruit, pome, group 11	10.0	10/31/16
Fruit, stone, group 12	5.0	10/31/16
Grape	5.0	10/31/16
Grape, raisin	20.0	10/31/16
Hazelnut	0.1	10/31/16
Hop, dried cones	65.0	10/31/16
Nut, hickory	0.1	10/31/16
Nut, macadamia	0.1	10/31/16
Pecan	0.1	10/31/16
Peppermint, oil	30.0	10/31/16
Peppermint, tops	25.0	10/31/16
Spearmint, oil	30.0	10/31/16
Spearmint, tops	25.0	10/31/16
Strawberry	10.0	10/31/16
Tea, dried	50.0	None
Tea, plucked leaves	30.0	None
Vegetable, cucurbit, group 9	2.0	10/31/16
Vegetable, fruiting, group 8	2.0	10/31/16
Walnut	0.1	10/31/16

(2) Tolerances are established for residues of the insecticide dicofol, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of p,p-dicofol, 4-chloro-α-(4-chlorophenyl)-α-(trichloromethyl)benzenemethanol, its isomer o,p-dicofol, 2-chloro-α-(4-chlorophenyl)-α-(trichloromethyl) benzenemethanol, and its metabolites 4-chloro-α-(4-chlorophenyl)-α-(dichloromethyl)benzenemethanol and 2-chloro-α-(4-chlorophenyl)-α-(dichloromethyl)benzenemethanol, calculated as the stoichiometric equivalent of p,p-dicofol, 4-chloro-α-(4-chlorophenyl)-α-(trichloromethyl) benzenemethanol, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Cattle, fat	50.0	10/31/16
Cattle, liver	5.0	10/31/16
Cattle, meat	3.0	10/31/16
Cattle, meat byproducts, except liver	3.0	10/31/16
Egg	0.05	10/31/16
Goat, fat	50.0	10/31/16
Goat, liver	5.0	10/31/16
Goat, meat	3.0	10/31/16
Goat, meat byproducts, except liver	3.0	10/31/16
Hog, fat	50.0	10/31/16
Hog, liver	5.0	10/31/16
Hog, meat	3.0	10/31/16
Hog, meat byproducts, except liver	3.0	10/31/16
Horse, fat	50.0	10/31/16
Horse, liver	5.0	10/31/16
Horse, meat	3.0	10/31/16
Horse, meat byproducts, except liver	3.0	10/31/16
Milk, fat (reflecting 0.75 ppm in whole milk)	22.0	10/31/16
Poultry, fat	0.1	10/31/16
Poultry, meat	0.1	10/31/16
Poultry, meat byproducts	0.1	10/31/16
Sheep, fat	50.0	10/31/16
Sheep, liver	5.0	10/31/16
Sheep, meat	3.0	10/31/16
Sheep, meat byproducts, except liver	3.0	10/31/16

* * * * *

§§ 180.173, 180.180, and 180.214 [Removed]

■ 5. Sections 180.173, 180.180, and 180.214 are removed.

§ 180.215 [Amended]

■ 6. Section 180.215 is amended by removing the entry for ''Lettuce'' from the table in paragraph (a)(1).

§ 180.221 [Removed]

■ 7. Section 180.221 is removed.

■ 8. Section 180.232 is amended by revising the table in paragraph (a) to read as follows:

§ 180.232 Butylate; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/ revocation date
Corn, field, forage	0.1	3/23/13
Corn, field, grain	0.1	3/23/13
Corn, field, stover	0.1	3/23/13
Corn, pop, grain	0.1	3/23/13
Corn, pop, stover	0.1	3/23/13
Corn, sweet, forage	0.1	3/23/13
Corn, sweet, kernel plus cob with husks removed	0.1	3/23/13

* * * * *

§ 180.235 [Amended]

■ 9. Section 180.235 is amended by removing the entry for ''Tomato, postharvest (residues expressed as naled)'' from the table in paragraph (a)(1).

§ 180.239 [Removed]

■ 10. Section 180.239 is removed.

■ 11. Section 180.253 is amended by revising paragraphs (a) and (c) to read as follows:

§ 180.253 Methomyl; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide methomyl, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only methomyl, methyl *N*-[[(methylamino)carbonyl]oxy]ethan imidothioate, in or on the commodity.

Commodity	Parts per million	Expiration/ revocation date
Alfalfa, forage	10	None
Alfalfa, hay	10	None
Apple	1	None
Asparagus	2	None
Avocado	2	None
Barley, grain	1	None
Barley, hay	10	None
Barley, straw	10	None
Bean, dry, seed	0.1	None
Bean, forage	10	None
Bean, succulent	2	None
Beet, garden, tops	6	None
Bermudagrass, forage	10	None
Bermudagrass, hay	40	None
Blueberry	6	None
Broccoli	3	None
Brussels sprouts	2	None
Cabbage	5	None
Cabbage, Chinese, bok choy	5	None
Cabbage, Chinese, napa	5	None
Cauliflower	2	None
Celery	3	None
Collards	6	None
Corn, field, forage	10	None
Corn, field, grain	0.1	None
Corn, field, stover	10	None
Corn, pop, grain	0.1	None
Corn, pop, stover	10	None
Corn, sweet, forage	10	None
Corn, sweet, kernel plus cob with husks removed	0.1	None
Corn, sweet, stover	10	None
Cotton, undelinted seed	0.1	None
Dandelion, leaves	6	None
Endive	5	None
Grape	5	12/31/16
Grapefruit	2	None
Hop, dried cones [1]	12	None
Kale	6	None
Lemon	2	None
Lentil, seed	0.1	None
Lettuce	5	None
Mustard greens	6	None
Nectarine	5	None

Commodity	Parts per million	Expiration/ revocation date
Oat, forage	10	None
Oat, grain	1	None
Oat, hay	10	None
Oat, straw	10	None
Onion, green	3	None
Orange	2	None
Parsley, leaves	6	None
Pea	5	None
Pea, field, vines	10	None
Peach	5	None
Peanut	0.1	None
Pecan	0.1	None
Pepper, bell	2	None
Pepper, nonbell	2	None
Peppermint, tops	2	None
Pomegranate	0.2	None
Rye, forage	10	None
Rye, grain	1	None
Rye, straw	10	None
Sorghum, grain, forage	1	None
Sorghum, grain, grain	0.2	None
Soybean, forage	10	None
Soybean, seed	0.2	None
Spearmint, tops	2	None
Spinach	6	None
Swiss chard	6	None
Tangerine	2	None
Tomato	1	None
Turnip, greens	6	None
Vegetable, brassica, leafy, group 5	6.0	None
Vegetable, cucurbit, group 9	0.2	None
Vegetable, fruiting, group 8	0.2	None
Vegetables, leafy [2]	0.2	None
Vegetable, root and tuber, group 1	0.2	None
Wheat, forage	10	None
Wheat, grain	1	None
Wheat, hay	10	None
Wheat, straw	10	None

[1] There are no U.S. registrations for use of methomyl on hop, dried cone, as of February 14, 1990.
[2] Except for Beet (tops), broccoli, Brussels sprouts, cabbage, cabbage, Chinese, cauliflower, celery, collards, dandelions, endive (escarole), kale, lettuce, mustard greens, parsley, spinach, Swiss chard, turnip, greens (tops), and watercress.

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with regional registration, as defined in § 180.1(l), is established for residues of the insecticide methomyl, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only methomyl, methyl *N*-[[(methylamino)carbonyl]oxy]ethanimidothioate, in or on the commodity.

* * * * *

■ 12. Section 180.289 is amended by revising paragraph (a) to read as follows:

§ 180.289 Methanearsonic acid; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide methanearsonic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only methanearsonic acid, from application of the disodium and monosodium salts of methanearsonic acid, calculated as the stoichiometric equivalent of As_2O_3, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Cotton, undelinted seed	0.7	None
Cotton, hulls	0.9	None
Fruit, citrus	0.35	12/31/12

* * * * *

■ 13. Section 180.319 is revised to read as follows:

§ 180.319 Interim tolerances.

(a) *General.* While petitions for tolerances for negligible residues are pending and until action is completed on these petitions, interim tolerances are established for residues of the listed pesticide chemicals in or on the following raw agricultural commodities:

Substances	Uses	Tolerance in parts per million	Raw agricultural commodity	Expiration/ revocation date
Coordination product of zinc ion and maneb	Fungicide	1.0 (Calculated as zinc ethylene-bisdithio-carbamate).	Potato	None
Endothall (7-oxabicyclo-(2,2,1)heptane 2,3-dicarboxylic acid.	Herbicide	0.2	Beet, sugar	None
Methyl parathion	Herbicide	0.5	Rye	12/31/13

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 14. Section 180.368 is amended by alphabetically adding the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) * * * (1) * * *

Commodity	Parts per million
* * * * *	
Corn, pop, grain	0.10
Corn, pop, stover	6.0
* * * * *	

* * * * *

■ 15. Section 180.422 is amended by revising paragraph (a) to read as follows:

§ 180.422 Tralomethrin; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide tralomethrin, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of tralomethrin, (S)-cyano(3-phenoxyphenyl)methyl (1R,3S)-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylate, and its metabolites (S)-cyano(3-phenoxyphenyl)methyl (1R,3R)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate and (S)-cyano(3-phenoxyphenyl)methyl (1S,3R)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate, calculated as the stoichiometric equivalent of tralomethrin, in or on the commodity.

Commodity	Parts per million	Expiration/ revocation date
Broccoli	0.5	7/9/13
Cotton, undelinted seed	0.02	7/9/13
Cotton, oil	0.20	7/9/13
Lettuce, head	1.00	7/9/13
Lettuce, leaf	3.00	7/9/13
Soybean, seed	0.05	7/9/13
Sunflower, seed	0.05	7/9/13

(2) A tolerance of 0.02 part per million with an expiration/revocation date of July 9, 2013 is established for residues of the insecticide tralomethrin, including its metabolites and degradates, in or on food commodities (other than those covered by a higher tolerance as a result of use on growing crops) in food-handling establishments. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of tralomethrin, (S)-cyano(3-phenoxyphenyl)methyl (1R,3S)-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylate, and its metabolites (S)-cyano(3-phenoxyphenyl)methyl (1R,3R)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate and (S)-cyano(3-phenoxyphenyl)methyl (1S,3R)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate, calculated as the stoichiometric equivalent of tralomethrin, in or on the commodity.

(i) The insecticide may be present as a residue from application of tralomethrin in food-handling establishments, including food service, manufacturing, and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries.

(ii) The application shall be made in accordance with the following prescribed conditions: Application shall be limited to a general surface and spot and/or crack and crevice treatment in food-handling establishments where food and food products are held, processed, prepared, and served. General surface application may be used only when the facility is not in operation provided exposed food has been covered or removed from the area being treated. All food-contact surfaces and equipment must be thoroughly cleaned after general surface applications. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed food is covered or removed from the area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of food and food-contact surfaces shall be avoided.

(3) A tolerance of 0.02 part per million with an expiration/revocation date of July 9, 2013 is established for residues of the insecticide tralomethrin, including its metabolites and degradates, in or on feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) in feed-handling establishments. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of tralomethrin, (S)-cyano(3-phenoxyphenyl)methyl (1R,3S)-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylate, and its metabolites (S)-cyano(3-phenoxyphenyl)methyl (1R,3R)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate and (S)-cyano(3-phenoxyphenyl)methyl (1S,3R)-3-(2,2-dibromoethenyl)-2,2-dimethylcyclopropanecarboxylate, calculated as the stoichiometric equivalent of tralomethrin, in or on the commodity.

(i) The insecticide may be present as a residue from application of tralomethrin in feed-handling establishments, including feed manufacturing and processing establishments.

(ii) The application shall be made in accordance with the following prescribed conditions: Application shall be limited to a general surface and spot and/or crack and crevice treatment in feed-handling establishments where feed and feed products are held or processed. General surface application may be used only when the facility is

not in operation provided exposed feed has been covered or removed from the area being treated. All feed-contact surfaces and equipment must be thoroughly cleaned after general surface applications. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed feed is covered or removed from the area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of feed and feed-contact surfaces shall be avoided.

* * * * *

§ 180.452 [Amended]

■ 16. Section 180.452 is amended by removing the entries for ''Corn, sweet, forage'' and ''Corn, sweet, stover'' from the table in paragraph (a).

§ 180.458 [Amended]

■ 17. Section 180.458 is amended by removing the entry for ''Soybean, soapstock'' from the table in paragraph (a).

§§ 180.536 and 180.550 [Removed]

■ 18. Sections 180.536 and 180.550 are removed.

■ 19. Section 180.905 is revised to read as follows:

§ 180.905 Pesticide chemicals; exemptions from the requirement of a tolerance.

(a) When applied to growing crops, in accordance with good agricultural practice, the following pesticide chemicals are exempt from the requirement of a tolerance:

(1) Petroleum oils.

(2) Piperonyl butoxide.

(3) Pyrethrins.

(4) Sabadilla.

(b) When applied to growing crops, in accordance with good agricultural practice, the pesticides rotenone or derris or cube roots are exempt from the requirement of a tolerance. There are no U.S. registrations for use of rotenone, derris, or cube roots on food commodities as of March 23, 2011.

(c) These pesticides are not exempted from the requirement of a tolerance when applied to a crop at the time of or after harvest.

§ 180.1035 [Removed]

■ 20. Section 180.1035 is removed.

[FR Doc. 2012–23712 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 501

[Docket No. 12–08]

RIN 3072–AC50

Reporting and Supervision of Inspector General

September 20, 2012.

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (FMC or Commission) amends its regulations relating to agency organization to reflect changes in reporting requirements for the Office of Inspector General, implemented in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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

FOR FURTHER INFORMATION CONTACT: Rebecca A. Fenneman, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573, (202) 523–5740, *GeneralCounsel@fmc.gov.*

SUPPLEMENTARY INFORMATION: The FMC amends Part 501 of Title 46 of the Code of Federal Regulations to reflect a change in reporting requirements for Inspectors General of Designated Federal Entities, implemented in the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, July 21, 2010 (Dodd-Frank). In Dodd-Frank, signed into law on July 21, 2010, Congress amended Section 8G of the Inspector General Act of 1978 (IG Act), to provide, as pertinent here, that the term ''head of the designated Federal entity'' means ''the board or commission of the designated Federal entity.'' Public Law 111–203, sec. 989B (1)(A), 124 Stat. 1376, 1945. Because Section 8G of the IG Act provides that Inspectors General report to and are under the general supervision of the head of a designated Federal entity, the effect of the changed definition of ''head of the designated Federal entity'' in the Dodd-Frank amendment is that the FMC's Inspector General reports to and is under the general supervision of the entire Commission. This change in the reporting and supervision of the Inspector General necessitates minor amendments in the Commission's rules dealing with lines of responsibility (46 CFR 501.4), and functions of the organizational components of the Commission (46 CFR 501.5).

With respect to lines of responsibility, 46 CFR 501.4(a) is amended to eliminate the Office of Inspector General from the list of offices that report to the Chairman, and a new paragraph, 46 CFR 501.4(b), is added to reflect that the Inspector General reports to the Commission. With regard to functions of organizational components of the Commission, 46 CFR 501.5(a), which sets out the functions of the Chairman, is amended to eliminate the Office of Inspector General from the list of offices that receive management direction from the Chairman, to remove 46 CFR 501.5(a)(2) from this section, and to renumber 46 CFR 501.5(a)(3) and 46 CFR 501.5(a)(4) as 46 CFR 501.5(a)(2) and 46 CFR 501.5(a)(3) respectively. Finally, 46 CFR 501.5(b), which sets out the functions of the Commissioners, is amended by adding language providing that the Inspector General reports to and is under the general supervision of the Commission, and by adding section 501.5(b)(1) to describe the functions of the Office of Inspector General.

Because the changes made in this Final Rule address only internal agency organization, which do not require notice and public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553, this rule is published as final. This rule is not a ''major rule'' under 5 U.S.C. 804(2).

List of Subjects in 46 CFR Part 501

Administrative practice and procedure, Authority delegations, Organization and functions, Seals and insignia.

For the reasons stated in the preamble, the Federal Maritime Commission amends 46 CFR part 501 as follows:

PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

■ 1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 551–557, 701–706, 2903, and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501–520 and 3501–3520; 46 U.S.C. 301–307, 40101–41309, 42101–42109, 44101–44106; Reorganization Plan No. 7 of 1961, 26 FR 7315, August 12, 1961; Pub. L. 89–56, 70 Stat. 195; 5 CFR Part 2638; Pub. L. 104–320, 110 Stat. 3870.

■ 2. Amend § 501.4 as follows:

■ a. In paragraph (a) by removing the reference ''the Office of the Inspector General,'';

■ b. Redesignate paragraph (b) as paragraph (c); and

■ c. Add a new paragraph (b) to read as follows:

§ 501.4 Lines of Responsibility.

* * * * *

(b) *Commission.* The Inspector General reports to the Commission.

* * * * *

■ 3. Amend § 501.5 as follows:

■ a. In paragraph (a) introductory text by removing the reference ''Inspector General,'' from the second sentence and by removing the reference ''(a)(4)'' and adding the reference ''(a)(3)'' in its place in the last sentence;

■ b. Remove paragraph (a)(2);

■ c. Redesignate paragraphs (a)(3) and (4) as (a)(2) and (3) respectively; and

■ d. In paragraph (b) introductory text by adding a sentence to the end.

■ e. Add paragraph (b)(1) and reserved paragraph (b)(2).

§ 501.5 Functions of the organizational components of the Federal Maritime Commission.

* * * * *

(b) * * * In addition, the Inspector General reports to and is under the general supervision of the Commission.

(1) Under the direction and management of the Inspector General, the *Office of Inspector General* conducts, supervises and coordinates audits and investigations relating to the programs and operations of the Commission; reviews existing and proposed legislation and regulations pertaining to such programs and operations; provides leadership and coordination and recommends policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect waste, fraud and abuse in, such programs and operations; and advises the Commission and the Congress fully and currently about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

(2) [Reserved]

* * * * *

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2012–23708 Filed 9–25–12; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812344–2449–02]

RIN 0648–AY74

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 20A

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the management measures of Amendment 20A (Amendment 20A) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule revises the wreckfish individual transferable quota (ITQ) program, by defining and reverting inactive wreckfish quota shares, redistributing reverted quota shares to remaining shareholders, establishing a cap on the number of wreckfish quota shares a single entity may own, and establishing an appeals process for redistribution of reverted wreckfish quota shares. The intent of this rule is to help achieve the optimum yield (OY) from the wreckfish commercial sector in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This rule is effective October 26, 2012.

ADDRESSES: Electronic copies of Amendment 20A may be obtained from the Southeast Regional Office Web Site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.* Written comments regarding burden-hour estimates or other aspects of collection-of-information requirements contained in this final rule may be submitted to Anik Clemens by email *Anik.Clemens@noaa.gov,* or telephone 727–824–5305, and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727–824–5305, or email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: Wreckfish is part of the snapper-grouper fishery and is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

On January 12, 2012, NMFS published a notice of availability for Amendment 20A and requested comments (77 FR 1908). On March 30, 2012, NMFS published a proposed rule for Amendment 20A and requested public comments (77 FR 19165). The proposed rule and Amendment 20A outline the rationale for the actions contained in this final rule. Amendment 20A was approved by the Secretary of Commerce on April 6, 2012. A summary of the actions implemented by this final rule are provided below.

This final rule revises the wreckfish ITQ program, established in 1992, by defining and reverting inactive wreckfish quota shares, redistributing reverted quota shares to remaining shareholders, establishing a share cap, and establishing an appeals process for redistribution of reverted wreckfish quota shares. The intent of this rule is to achieve OY in the wreckfish commercial sector while maximizing harvest potential and not exceeding the annual catch limit (ACL).

Changes From the Proposed Rule

When the Council took final action to approve Amendment 20A in December 2011, there were 20 wreckfish shareholders. Of those 20 shareholders, 13 were considered to be ''inactive'' and 7 ''active'' as defined in Amendment 20A. The 13 inactive shareholders held 28.18 percent of the shares, which would be redistributed among the 7 active wreckfish shareholders. After the Council took final action, several share transfers occurred which changed the distribution of shares in the wreckfish commercial sector of the snapper-grouper fishery. As of September 26, 2012, there are 6 active shareholders and 4 inactive shareholders. The active shareholders now hold 98.599 percent of the shares, and the inactive shareholders now hold 1.401 percent of the shares. The proposed rule and Amendment 20A state that 5 percent of the wreckfish quota shares will be set-aside, to resolve any appeals, for a period of 90 days starting on the effective date of the final rule. Due to the share transfers that occurred after the Council took final action to approve Amendment 20A in December 2011, only 1.401 percent of the shares remains ''inactive'' and thus are available to be reverted and redistributed. Therefore, only 1.401 percent is available as the set-aside to resolve any appeals, and NMFS will redistribute any shares remaining after the appeals process is complete. Any shares remaining after

completion of the appeals process, up to 1.401 percent of the shares, will be reverted and redistributed among the remaining active shareholders, depending on the remaining individual shareholder's landings history from April 16, 2006, through January 14, 2011.

Comments and Responses

NMFS received a total of 13 comments on Amendment 20A and the proposed rule, which include comments from individuals, including those in the recreational sector, restaurant and seafood businesses, and a consulting firm. Comments received regarding the value of the wreckfish ACL, the acceptable biological catch level, and the recreational wreckfish allocation, are related to actions contained in the South Atlantic Comprehensive Annual Catch Limit Amendment (Comprehensive ACL Amendment), and are not in Amendment 20A. The final rule to implement the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012), which became effective April 16, 2012, addressed all comments received on that amendment and its proposed rules. Specific comments related to the actions contained in Amendment 20A and the proposed rule and NMFS' respective responses, are summarized below.

Comment 1: Inactive shares should be allocated to the recreational sector for wreckfish.

Response: The Council did not consider redistributing inactive commercial wreckfish shares to the recreational sector in Amendment 20A. Prior to the implementation of the Comprehensive ACL Amendment on April 16, 2012, a specific allocation of wreckfish for the recreational sector did not exist within the FMP. Due to recreational snapper-grouper fishermen reporting an increased incidence of wreckfish encounters in recent years, and the fact that wreckfish are caught in very deep water, it is assumed all incidentally caught wreckfish by recreational fishermen are released dead. The Council decided to create a wreckfish recreational allocation of five percent in the Comprehensive ACL Amendment to allow recreational fishermen to retain fish, which would otherwise likely die. The recreational ACL is 11,750 lb (5,330 kg) round weight.

The Council chose to redistribute latent (inactive) shares to active commercial participants to optimize commercial wreckfish harvest and minimize latent effort. The Council's decision allows those participants, who are more dependent on wreckfish harvest, to retain their current shares and to be eligible to receive shares from redistribution. The Council chose to redistribute inactive shares to wreckfish shareholders who reported wreckfish landings during the fishing years 2006/2007 through 2010/2011.

Comment 2: Redistributed reverted shares should be based on 50-percent equal allocation in addition to 50-percent landings history for the total wreckfish landings from April 16, 2006, through January 14, 2011.

Response: The Council analyzed and evaluated using that approach, but chose to redistribute reverted shares to remaining shareholders based on landings history only from April 16, 2006, through January 14, 2011. The Council's decision allows those participants who are more dependent on wreckfish harvest to retain their current shares and to be eligible to receive shares from redistribution.

Comment 3: The final outcome of Amendment 20A is questionable since the purchase (or transfer) of inactive shares (those with no recent activity) would render these shares ineligible for redistribution. An analysis of what can be appealed is requested.

Response: One of the purposes of Amendment 20A is to redistribute any inactive shares to active shareholders. After the Council approved Amendment 20A for Secretarial review at its December 2011 meeting, many inactive shares were purchased and transferred to active shareholders. Any inactive shares remaining after implementation of this final rule are available for redistribution. Though the number of shares to be redistributed has changed since the Council took final action (from 28.18 to 1.401 percent of the shares), the items that may be appealed have not changed. The appeals process allows inactive wreckfish shareholders to appeal the reversion of their shares that NMFS considers ''inactive'', and active shareholders can appeal the percentage of reverted shares that NMFS redistributes to them. Any shares remaining after completion of the appeals process, up to 1.401 percent of the shares, will be reverted and redistributed among the remaining active shareholders, depending on the remaining individual shareholder's landings history from April 16, 2006, through January 14, 2011.

Comment 4: The 49-percent share cap seems excessive for a public resource.

Response: The Council considered seven alternatives with respect to establishing a share cap in the wreckfish ITQ program: no share cap, and share caps of 15 percent, 25 percent, 49 percent, 65 percent, and the highest percentage of total shares held by a single shareholder after redistribution of inactive quota shares. The Council considered a variety of factors in determining what constitutes an excessive share for this public resource and an appropriate share cap, in the wreckfish ITQ program, including market power in the product, input, and quota share markets, management objectives contained in the Magnuson Stevens Act, and its management objectives for Amendment 20A.

The creation of market power in seafood markets through concentration of wreckfish quota shares is unlikely because wreckfish directly competes against other domestically harvested and imported groupers, snappers, and other fish. Further, most of the important inputs (*e.g.,* fuel, crew, hooks, line, etc.) used by commercial wreckfish fishermen are also used by commercial fishermen harvesting other species in competition with wreckfish fishermen, recreational fishermen, or the general public. Thus, even if a single shareholder possessed all of the quota shares, that shareholder very likely would not possess any control over input prices because of competition from other buyers.

A share cap implemented in a commercial sector operating under a catch share program customarily applies at the individual rather than the shareholder level. This approach prevents individuals from exceeding the share cap by being or becoming partial or full owners of other entities that also own quota shares, or more specifically share certificates in the case of wreckfish.

With respect to the 49-percent share cap alternative, although this alternative does not allow the historically largest harvester to maintain his recent level of landings, it does allow this individual to come relatively close, particularly if the individual chooses to buy additional shares up to the 49-percent cap. As such, the Council expected this individual to have sufficient quota shares to continue operations after redistribution of the inactive shares. Further, the other individuals were expected to have sufficient shares to maintain or even exceed their recent landings after redistribution of the inactive shares. Thus, the 49-percent share cap alternative was the most likely to ensure the commercial ACL is harvested and OY is attained. The Council thought it was equitable to allow shareholders with greater economic dependence on wreckfish landings to possess relatively more of the quota shares. Given the benefits of the 49-percent share cap alternative

relative to the other alternatives, for this public resource, the Council selected a 49-percent share cap.

Comment 5: The appeals process will only be as good as the NMFS wishes that effort to become.

Response: The appeals process included in Amendment 20A allows inactive wreckfish shareholders to appeal the reversion of shares they hold (inactive status), and active shareholders to appeal the percentage of reverted shares redistributed to them. The Regional Administrator will render decisions on appeals based on NMFS logbooks or state landings data if NMFS logbooks are not available. Hardship appeals will not be considered. NMFS finds this appeals process to be appropriate for the commercial wreckfish sector.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that the actions contained in this final rule are necessary for the conservation and management of the snapper-grouper fishery in the South Atlantic and that they are consistent with Amendment 20A, the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here.

One of the comments addressed in the Supplementary Information section, regarding the distribution of the latent shares that would be revoked, included economic implications and is also addressed here. This comment stated that the latent shares should be retired and not redistributed to other commercial shareholders with the exception that a small unspecified portion should be given to the recreational sector. The final rule for the Comprehensive ACL Amendment, which became effective on April 16, 2012 (77 FR 15916, March 16, 2012), allocated 95 percent of the wreckfish ACL to the commercial sector and 5 percent to the recreational sector. Allocating some portion of latent shares to the recreational sector and retiring the rest would be inconsistent with the allocation established by the Council in the Comprehensive ACL Amendment, would not allow the commercial ACL to be harvested, and would result in reduced economic benefits to commercial small business entities. Therefore, no change has been made to this final rule as a result of this comment.

Because this final rule reduces the set-aside for appeals from 5 percent to 1.401 percent and, more importantly, inactive shareholders hold all of the quota shares being set-aside, active shareholders are not expected to experience any direct, adverse economic effects due to this action. Further, because the inactive shareholders have no gross revenue or profits from commercial fishing for wreckfish, the set-aside of their quota shares in the short-term to resolve appeals would not reduce their gross revenue or profit. Thus, the direct, adverse economic effects on shareholders as a result of this action and final rule will be less than what was estimated in the proposed rule. No other new information has been received that would affect the analysis of impacts on small entities. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), which has been approved by OMB under control number 0648–0551. Public reporting burden for the appeals process regarding the redistribution of inactive wreckfish shares is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

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

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 20, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.15, paragraph (a) is revised to read as follows:

§ 622.15 Wreckfish individual transferable quota (ITQ) system.

* * * * *

(a) *General*—(1) *Percentage shares*—(i) *Initial ITQ shares.* In accordance with the procedure specified in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region, percentage shares of the quota for wreckfish were assigned at the beginning of the program. Each person was notified by the RA of his or her percentage share and shareholder certificate number.

(ii) *Reverted ITQ shares.* Any shares determined by NMFS to be inactive, will be redistributed proportionately among remaining shareholders (subject to cap restrictions) based on shareholder landings history. Inactive shares are, for purposes of this section, those shares held by ITQ shareholders who have not reported any wreckfish landings between April 16, 2006, and January 14, 2011.

(iii) *Percentage share set-aside to accommodate resolution of appeals.* During the 2012–2013 fishing year, the RA will reserve 1.401 percent of wreckfish ITQ shares prior to redistributing shares (see paragraph (a)(1)(ii) of this section) to accommodate resolution of appeals, if necessary. NMFS will distribute any portion of the 1.401-percent share remaining after the appeals process as soon as possible among the remaining shareholders.

(iv) *Procedure for appealing wreckfish quota share status and landings information.* Appeals must be submitted to the RA postmarked no later than January 24, 2013 and must contain documentation supporting the basis for the appeal. The only items subject to appeal are the status of wreckfish quota shares, as active or inactive, and the accuracy of the amount of landings. The RA will review and evaluate all appeals,

render final decisions on the appeals, and advise the appellant of the final decision. Appeals based on hardship factors will not be considered. The RA will determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA may use state landings records. Appellants must submit NMFS' logbooks or state landings records, as appropriate, to support their appeal.

(2) *Share transfers.* All or a portion of a person's percentage shares are transferrable. Transfer of shares must be reported on a form available from the RA. The RA will confirm, in writing, each transfer of shares. The effective date of each transfer is the confirmation date provided by the RA. NMFS charges a fee for each transfer of shares and calculates the amount in accordance with the procedures of the NOAA Finance Handbook. The handbook is available from the RA. The fee may not exceed such costs and is specified with each transfer form. The appropriate fee must accompany each transfer form.

(3) *ITQ share cap.* No person, including a corporation or other entity, may individually or collectively hold ITQ shares in excess of 49 percent of the total shares. For the purposes of considering the share cap, a corporation's total ITQ share is determined by adding the corporation's ITQ shares to any other ITQ shares the corporation owns in another corporation. If an individual ITQ shareholder is also a shareholder in a corporation that holds ITQ shares, an individual's total ITQ share is determined by adding the applicable ITQ shares held by the individual to the applicable ITQ shares equivalent to the corporate share the individual holds in a corporation. A corporation must provide the RA the identity of the shareholders of the corporation and their percent of shares in the corporation, and provide updated information to the RA within 30 days of when a change occurs. This information must also be provided to the RA any time a commercial vessel permit for wreckfish is renewed or transferred.

* * * * *

[FR Doc. 2012–23731 Filed 9–25–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120109034–2153–02]

RIN 0648–XC168

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2012 Days-at-Sea Adjustment for Common Pool Fishery; Announcement of Fishing Year 2011 Sector Annual Catch Entitlement Carryover

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

ACTION: Temporary rule.

SUMMARY: NMFS adjusts the differential days-at-sea (DAS) rate for common pool vessels for fishing year (FY) 2012 due to overages of FY 2011 catch levels. This measure will help prevent FY 2012 catch levels from being exceeded. NMFS also announces the final amount of unused FY 2011 annual catch entitlement (ACE) carryover available to each sector in FY 2012.

DATES: Effective September 26, 2012, through April 30, 2013.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, (978) 675–2153.

SUPPLEMENTARY INFORMATION:

FY 2012 Differential DAS Counting for Common Pool Vessels

Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan requires that a catch overage of a sub-annual catch limit (sub-ACL) or total ACL, triggers an accountability measure (AM) for common pool vessels in the distinct Differential DAS Area where each stock is predominantly caught. The AM is a differential DAS adjustment to all Category A DAS used by common pool vessels, and is applied to the time spent in the applicable DAS counting area where a vessel fishes. The AMs account for the percentage by which the sub-ACL or total ACL is exceeded, and are meant to prevent overages of future catch levels. For example, an overage of the Atlantic halibut sub-ACL requires a differential DAS rate adjustment to be applied to common pool vessels fishing in the area(s) that past catch information shows the majority of the Atlantic halibut is caught. The AM regulation at 50 CFR 648.82(n) also requires applying an additional differential DAS counting factor in an area for a specific stock if the sub-ACL is exceeded again in a subsequent year, to account for both year's overages. For example, if the sub-ACL for Georges Bank (GB) winter flounder was exceeded in FY 2010 by 60 percent and triggered a differential DAS adjustment (1.6) in FY 2011, and the sub-ACL was exceeded again in FY 2011 by 30 percent (requiring a 1.3 differential), then in FY 2012, a differential DAS rate of 2.1 (1.6×1.3) would be applied.

Final FY 2011 sector and common pool catch information became available in June 2012. This information showed that in the commercial groundfish fishery (sector and common pool only), the sub-ACL for Atlantic halibut was exceeded by 29 percent. This requires NMFS to implement a differential DAS rate of 1.3 in the Offshore Gulf of Maine (GOM) and the Inshore GB Differential DAS areas as an AM for Atlantic halibut.

Final FY 2011 sector and common pool catch information shows that the sub-ACL for northern windowpane flounder was exceeded by 42 percent. The northern windowpane flounder overage occurred despite a differential DAS rate of 1.3 applied in FY 2011 due to an overage in FY 2010 of 27 percent. As a result, NMFS is required to implement a differential DAS rate of 1.8 (1.3×1.4) in the Offshore GB Differential DAS Area as a result of the consecutive FY 2010 and 2011 overages of northern windowpane flounder.

In addition to the commercial groundfish fishery information, NMFS has preliminary FY 2011 catch estimates for other components of the groundfish fishery, i.e., exempted fisheries, non-groundfish vessels (e.g., scallop vessels), and state-only permitted vessels. Based on these preliminary estimates of the other components of the groundfish fishery and final FY 2011 sector and common pool catch information, the total ACL for southern windowpane flounder was exceeded by 135 percent. This overage also requires a differential DAS adjustment for common pool vessels fishing in the area where the stock is predominantly caught. Therefore, a differential DAS rate of 2.4 will be applied to common pool vessels fishing in the Southern New England (SNE)/Mid-Atlantic (MA) Differential DAS Area as an AM for southern windowpane flounder. Further adjustments to the common pool differential DAS rate are possible based on final 2011 catch information for other components of the groundfish fishery.

FY 2011 Sector ACE Carryover

The regulations allow each sector to carry over into the following fishing year up to 10 percent of its initial allocation for all but one groundfish stock. ACE for GB yellowtail flounder cannot be carried over because catch levels for this stock are set each year by the U.S./Canada Resource Sharing Understanding. In addition, although the New Hampshire and Maine Permit Banks are allocated ACE for each FY, they are not eligible to carry over any amount of uncaught ACE. The following tables show the carryover for each Sector for FY 2011 based on final catch data.

BILLING CODE 3510–22–P

Table 1. Summary of FY 2011 ACE Carryover for All Sectors Combined (lb and mt)

Stock	FY 2011 Total ACE[2]		FY 2011 Catch[3]		FY 2011 ACE Carryover Cap[4]		FY 2011 ACE Carryover[5]	
	lb	mt	lb	mt	lb	mt	lb	mt
GB Cod	9,975,654	4,525	7,088,482	3,215.3	926,569	420.3	920,422	417.5
GOM Cod	11,357,677	5,152	9,629,835	4,368	1,036,390	470.1	1,030,072	467.2
GB Haddock	75,864,406	34,412	8,441,139	3,828.8	6,699,934	3,039	6,699,934	3,039
GOM Haddock	1,871,957	849	1,066,284	483.7	169,714	77.0	169,714	77.0
SNE/MA Yellowtail[1]	941,762	427	802,444	364	89,016	40.4	85,401	38.7
CC/GOM Yellowtail Flounder[1]	2,169,519	984	1,752,994	795.1	200,737	91.1	198,321	90.0
Plaice	7,302,377	3,312	3,597,140	1,631.6	665,279	301.8	665,279	301.8
Witch Flounder	2,847,251	1,291	2,189,014	992.9	266,017	120.7	265,982	120.6
GB Winter Flounder	4,796,109	2,175	4,242,164	1,924.2	439,406	199.3	328,831	149.2
GOM Winter Flounder	716,989	325	348,755	158.2	68,270	31.0	68,270	31.0
Redfish	18,034,606	8,180	5,959,501	2703.2	1,654,105	750.3	1,654,105	750.3
White Hake	7,038,744	3,193	6,645,585	3014.4	648,163	294.0	347,632	157.7
Pollock	34,096,310	15,466	16,629,759	7,543.1	3,046,207	1,381.7	3,046,207	1,381.7

[1] Southern New England (SNE)/Mid-Atlantic (MA), Cape Cod (CC)/Gulf of Maine (GOM).
[2] Amount of ACE allocated in FY 2011 in addition to ACE that was carried over from FY 2010.
[3] Includes all landings and discards.
[4] Maximum amount of ACE that can be carried over based on 10 percent of the initial FY 2011 allocations. In other words, carry over from FY 2010 is not included in this calculation.
[5] Amount of unused FY 2011 ACE, calculated as the difference between a sector's final catch and a sector's final ACE for each stock, including all ACE transfers.

Table 2. FY 2011 ACE Carryover Available to Each Sector in FY 2012 by Stock (lb)

Sector Name*	GB Cod	GOM Cod	GB Haddock	GOM Haddock	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	267,129	21,091	428,242	2,243	49	3,519	3,782	2,280	121	1,600	48,233	732	241,293
NCCS	1,623	8,144	8,175	583	835	1,274	1,018	556	303	657	7,316	5,289	13,869
NEFS 2	52,878	210,521	774,488	31,438	221	43,330	59,978	36,995	2,802	15,306	276,158	0	380,225
NEFS 3	11,953	185,194	10,844	21,105	269	19,675	30,153	8,377	147	7,973	25,833	33,649	237,331
NEFS 4	40,394	77,782	360,210	10,317	2,610	10,152	62,315	22,821	3,073	3,420	109,116	47,804	171,294
NEFS 5	19,050	1,142	264,437	556	27,035	2,192	9,967	4,702	8,795	235	4,810	1,461	9,479
NEFS 6	27,065	26,427	196,933	6,535	5,945	5,945	25,946	13,832	6,284	2,680	88,245	25,642	101,123
NEFS 7	41,684	4,578	255,504	964	4,298	5,560	23,253	8,405	50,305	632	10,733	4,943	21,299
NEFS 8	60,853	5,268	393,851	368	6,527	13,831	11,886	7,123	71,409	2,446	7,193	3,288	18,806
NEFS 9	138,935	17,467	806,790	8,058	9,361	21,644	57,442	22,785	85,500	1,769	96,036	20,133	119,823
NEFS 10	11,236	58,827	21,056	4,432	632	28,640	13,828	9,841	68	19,836	9,434	6,371	46,479
NEFS 11	3,747	133,314	2,420	4,294	20	2,991	10,189	4,184	4	1,468	15,941	15,979	202,406
NEFS 12	145	25,827	178	1,473	3	1,003	5,134	1,656	11	230	17,612	16,364	91,058
NEFS 13	75,804	7,453	1,003,173	1,470	14,614	6,338	26,447	13,698	47,928	909	75,932	12,254	72,010
PCCGS	836	42,394	2,130	3,678	425	1,778	39,532	10,441	9	931	33,842	20,969	93,148
SHS	155,540	195,245	1,942,499	68,804	8,812	21,616	269,884	91,829	44,007	4,304	800,587	128,971	1,193,104
SHS 3	5,168	869	131,409	2,604	3,598	4,607	7,654	3,893	44	2,363	26,997	3,663	32,280
TSS	6,403	8,528	97,593	795	147	4,226	6,871	2,564	8,019	1,512	88	121	1,182

*Georges Bank Cod Fixed Gear Sector (FGS), Northeast Coastal Communities Sector (NCCS), Northeast Fishery Sectors (NEFS), Port Clyde Community Groundfish Sector (PCCGS), Sustainable Harvest Sector (SHS), and Tri-State Sector (TSS)

Table 3. FY 2011 ACE Carryover Available to Each Sector in FY 2012 by Stock (mt)

Sector Name	GB Cod	GOM Cod	GB Haddock	GOM Haddock	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	121.2	9.6	194.2	1.0	0.0	1.6	1.7	1.0	0.1	0.7	21.9	0.3	109.4
NCCS	0.7	3.7	3.7	0.3	0.4	0.6	0.5	0.3	0.1	0.3	3.3	2.4	6.3
NEFS 2	24.0	95.5	351.3	14.3	0.1	19.7	27.2	16.8	1.3	6.9	125.3	0.0	172.5
NEFS 3	5.4	84.0	4.9	9.6	0.1	8.9	13.7	3.8	0.1	3.6	11.7	15.3	107.7
NEFS 4	18.3	35.3	163.4	4.7	1.2	4.6	28.3	10.4	1.4	1.6	49.5	21.7	77.7
NEFS 5	8.6	0.5	119.9	0.3	12.3	1.0	4.5	2.1	4.0	0.1	2.2	0.7	4.3
NEFS 6	12.3	12.0	89.3	3.0	2.7	2.7	11.8	6.3	2.9	1.2	40.0	11.6	45.9
NEFS 7	18.9	2.1	115.9	0.4	1.9	2.5	10.5	3.8	22.8	0.3	4.9	2.2	9.7
NEFS 8	27.6	2.4	178.6	0.2	3.0	6.3	5.4	3.2	32.4	1.1	3.3	1.5	8.5
NEFS 9	63.0	7.9	366.0	3.7	4.2	9.8	26.1	10.3	38.8	0.8	43.6	9.1	54.4
NEFS 10	5.1	26.7	9.6	2.0	0.3	13.0	6.3	4.5	0.0	9.0	4.3	2.9	21.1
NEFS 11	1.7	60.5	1.1	1.9	0.0	1.4	4.6	1.9	0.0	0.7	7.2	7.2	91.8
NEFS 12	0.1	11.7	0.1	0.7	0.0	0.5	2.3	0.8	0.0	0.1	8.0	7.4	41.3
NEFS 13	34.4	3.4	455.0	0.7	6.6	2.9	12.0	6.2	21.7	0.4	34.4	5.6	32.7
PCCGS	0.4	19.2	1.0	1.7	0.2	0.8	17.9	4.7	0.0	0.4	15.4	9.5	42.3
SHS	70.6	88.6	881.1	31.2	4.0	9.8	122.4	41.7	20.0	2.0	363.1	58.5	541.2
SHS 3	2.3	0.4	59.6	1.2	1.6	2.1	3.5	1.8	0.0	1.1	12.2	1.7	14.6
TSS	2.9	3.9	44.3	0.4	0.1	1.9	3.1	1.2	3.6	0.7	0.0	0.1	0.5

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and opportunity for public comment on these in-season DAS Differential and ACE carryover adjustments. Delay in the adjustments' effectiveness is impracticable, unnecessary, and contrary to the public interest and could hamper a fisherman's ability to make business decisions. Plus, the public has already been provided with an opportunity for notice and comment on potential adjustments, including the basis for such adjustments.

Notice and comment are impracticable, unnecessary, and contrary to the public interest. A delay implementing adjustments based on this information would prolong the time period that the fishery would be operating under a less restrictive differential DAS rate and could subject the vessels to FY 2012 overages, which would require even more restrictive AMs next year. Also, ACE carryover amounts may increase fishing opportunities available to each sector for FY 2012 or affect a sector's trading decisions for available ACE.

Common pool fishermen and sectors adjust their fishing plans based on available DAS and ACE. Delaying the effectiveness of the DAS Differential adjustments could hamper a common pool fisherman's ability to make effective business decisions based on the number of DAS available to them. Likewise, a delay in the ACE carryover adjustments for sectors could disrupt sector operations and prevent sectors from planning for the fishing year based on the amount of ACE available to them in FY 2012. FY 2011 ACE carryover may increase fishing opportunities available to each sector in FY 2012, especially if a sector has a small allocation for particular stocks. A delay in this action could result in foregone fishing opportunities during summer months when weather conditions are generally better. Because ACE may be traded between sectors, a delay in this action could also affect the ACE available to the market for trading, to the economic detriment of the fishery.

Lastly, a delay for prior opportunity for public comments is unnecessary and impracticable because the public was provided the opportunity to comment on the possibility of the anticipated adjustments, including the basis for such adjustments. Both the Framework Adjustment 47 final rule and the FY 2012 adjustment rule based on final sector rosters indicated that future adjustments may be made based on updated FY 2011 catch information and final sector rosters. Additionally, the Amendment 16 final rule indicated that differential DAS may be adjusted as an AM for the Common Pool. NMFS is making these adjustments now because FY 2011 catch information and sector final rosters only recently became available.

For the same reasons stated above, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness so that this final rule may become effective upon filing. Waiving this delay in effectiveness will help fishermen avoid exceeding FY 2012 catch limits. Finally, implementing this exemption as early as possible will provide fishermen and sectors the flexibility to strategize and adjust their plans for the remainder of the fishing year.

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

Dated: September 21, 2012.

Lindsay Fullenkamp,

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

[FR Doc. 2012–23734 Filed 9–25–12; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 77, No. 187
Wednesday, September 26, 2012

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE02

Chartering and Field of Membership Manual for Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: The NCUA Board (Board) proposes to amend the definition of ''rural district'' in NCUA's Chartering and Field of Membership Manual. The proposed amendment to the definition of ''rural district'' permits a geographic area to qualify as a rural district if, among other criteria, it has a total population that does not exceed the greater of 200,000 people or three percent of the population of the state in which the majority of the district is located. The current definition limits the rural district's population to 200,000, regardless of the population of the state containing the majority of the rural district.

DATES: Comments must be received on or before November 26, 2012.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Notice of Proposed Rulemaking for Chartering and Field of Membership Manual'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Associate General Counsel, or Elizabeth Wirick, Staff Attorney, Office of General Counsel, at the above address or by telephone (703) 518–6545, or Robert Leonard, Director, Division of Consumer Access, Office of Consumer Protection, at the above address or by telephone (703) 518–1150.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Credit Union Act (Act), as amended by the Credit Union Membership Access Act of 1998 (CUMAA), establishes requirements for membership in federal credit unions (FCUs). The Act gives the Board broad rulemaking authority over FCUs. 12 U.S.C. 1766(a). NCUA has implemented the Act's field of membership requirements in its Chartering and Field of Membership Manual (Chartering Manual), incorporated as Appendix B to Part 701 of NCUA's regulations. 12 CFR Part 701, Appendix B. NCUA also publishes the Chartering Manual as an Interpretative Ruling and Policy Statement (IRPS). The current version of the Chartering Manual is set forth as IRPS 08–2, as amended by IRPS 10–1.

Rural District

The Act provides that a community credit union is one organized around a ''well-defined local community, neighborhood, or rural district.'' 12 U.S.C. 1759(b)(3). In CUMAA, Congress also specifically delegated to the Board the authority to define by regulation the meaning of ''well-defined local community'' (WDLC) and ''rural district'' for FCU charters. 12 U.S.C. 1759(g).

Since CUMAA's enactment, the agency has gained significant experience in determining the criteria that establish an area as a WDLC or rural district by fully analyzing and processing numerous applications for community charter conversions and expansions. With the benefit of this extensive experience, the Board is concerned that the current population limit associated with establishing a rural district is too restrictive to fulfill the potential of that charter type and is limiting some FCUs' abilities to serve members in rural America.

II. Proposed Change to the Definition of Rural District

The Chartering Manual currently includes two alternative sets of criteria to establish a rural district. One set of criteria is:

- The district has well-defined, contiguous boundaries;
- More than 50% of its population resides in areas the U.S. Census Bureau designates as rural; and
- The district's total population does not exceed 200,000.

The alternate criteria require:

- The district has well-defined, contiguous boundaries;
- It has a population density of no more than 100 people per square mile; and
- The district's total population does not exceed 200,000.

12 CFR part 701, Appendix B; Chartering Manual, Chapter 2.V.A.2. Thus, under either alternative, the upper limit on the population of a rural district is currently 200,000 persons.

The Board believes that the limit of 200,000 persons may, in many instances, be too low to sustain a viable rural district FCU for several reasons. A rural area may often be anchored by a small hub city or town. A relatively high portion of individuals living in the rural area may periodically travel to that small hub for shopping, entertainment, medical care or financial services. That hub is important to the rural district for services, and it is important to be included in the rural district to enhance an FCU's economic potential. Unfortunately, when included in the rural district for chartering purposes, the hub could cause the area to exceed the 200,000 person population limit

under the current definition. Additionally, the Board is aware that it is difficult for an FCU to reach and attract members living in large rural areas with widely dispersed populations. FCUs often incur greater expenses to locate, join, and serve these members than members in a smaller geographic area with a higher population density. Accordingly, a higher potential population is often necessary to ensure the economic viability of many rural district charters.

Since first defining the term rural district in 2010, NCUA has seen only modest usage of the rural district charter. In fact, currently there are fewer than 50 FCUs operating as a rural district charter. For the reasons noted above, the Board believes a higher population limit for an area to be considered a rural district is appropriate. Rather than simply imposing a larger numerical limit to attempt to fit all circumstances, the Board proposes to permit an area to qualify as a rural district if its population does not exceed the greater of (1) 200,000; or (2) three percent of the total population of the state in which the majority of the district is located.

The Board believes the addition of the three percent of state population component is broad enough to enhance an FCU's ability to serve individuals living in rural America, who often suffer from a lack of affordable financial services. The Board also believes that this component is sufficiently limited to permit the designation of a rural district only in geographic areas that are truly rural. Specifically, the enhanced definition will only affect FCUs seeking a rural district located in states with a population above approximately 6.67 million. This is because three percent of the population of states with fewer than 6.67 million people would already be less than the current 200,000 person limit. There are 13 states of this size. This will protect against having a rural district that is unreasonably large in relation to the size and population of a state. The Board has considered using a higher limit but is concerned that a higher limit could result in overly large rural districts. For example, if the limit were set at four percent, then that would affect FCUs seeking rural districts located in states with populations greater than approximately 5 million. This is because four percent of the population of states with fewer than 5 million people would already be less than the current 200,000 person limit. There are 22 states of this size. NCUA believes this higher limit could result in rural districts disproportionately large in relation to states of this size. Nonetheless, NCUA would appreciate receiving comments on this aspect of the proposal. Additionally, even with the proposed amendment to the definition, the other criteria in the definition not related to total population remain in place and help ensure the definition as a whole does not exceed appropriate boundaries. Although NCUA is not proposing changes to the other criteria in the definition of rural district at this time, NCUA welcomes comments on these aspects of the definition as well.

For FCUs seeking a rural district that includes portions of two or more states, the three percent state population component will be based on the population of the state containing the majority of the proposed rural district. The majority of a multi-state rural district will be based on population rather than geographic areas. For example, if an FCU applies to serve a district with two counties and 100,000 residents in one state, plus one county and 200,000 residents in a second state, the combined population of 300,000 could not exceed three percent of the population of the second state.

FCUs with current rural district charters are grandfathered, but they would also be able to apply to amend their charters based on the proposed criteria. As with all community charters, FCUs serving more populated rural districts must develop business and marketing plans that demonstrate how they will serve their entire community.

III. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small credit unions (primarily those under $10 million in assets). This proposed rule does not impose any requirements on small credit unions. NCUA has determined that this proposed rule will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or increases an existing burden. 44 U.S.C. 3507(d); 5 CFR part 1320. For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. NCUA has determined that this proposed rule does not impose a new information collection requirement or increase an existing burden.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This proposed 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. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

Treasury and General Government Appropriations Act, 1999

NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on September 20, 2012.

Mary Rupp,

Secretary of the Board.

For the reasons set forth above, NCUA proposes to amend Appendix B of 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.31 is also authorized by 15 U.S.C. 1601, *et seq.,* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

Appendix B [Amended]

2. Revise the fifth paragraph of Section V.A.2 of Chapter 2 of Appendix B to part 701 to read as follows:

Chapter 2

V.A.2—Definition of Well-Defined Local Community and Rural District

* * * * *

The rural district requirement is met if:

- Rural District—
- The district has well-defined, contiguous geographic boundaries;
- More than 50% of the district's population resides in census blocks or other geographic areas that are designated as rural by the United State Census Bureau; and
- The total population of the district does not exceed the greater of 200,000 people or three percent of the population of the state in which the majority of the district is located; or
- The district has well-defined, contiguous geographic boundaries;
- The district does not have a population density in excess of 100 people per square mile; and
- The total population of the district does not exceed the greater of 200,000 people or three percent of the population of the state in which the majority of the district is located.

* * * * *

[FR Doc. 2012–23643 Filed 9–25–12; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 702, 741 and 791

RIN 3133–AE07

Prompt Corrective Action, Requirements for Insurance, and Promulgation of NCUA Rules and Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule and Interpretive Ruling and Policy Statement 12–2 with request for comments.

SUMMARY: The NCUA Board (Board) proposes to amend Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2, and two NCUA regulations that apply asset thresholds to grant relief from risk-based net worth and interest rate risk requirements. The amended IRPS would result in more robust consideration of regulatory relief for more small credit unions in future rulemakings. The amended regulations would grant immediate and prospective relief from regulatory burden to a larger group of small credit unions.

DATES: Send your comments to reach us on or before October 26, 2012. We may not consider comments received after the above date in making our decision on the proposed rule.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Proposed Rule 702, 741, 791 and IRPS 12–2'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You can view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Tuininga, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6543.

SUPPLEMENTARY INFORMATION:

I. Background
II. The Rule as Proposed
III. Regulatory Procedures

I. Background

A. What changes does this proposed rule make?

The Regulatory Flexibility Act, Public Law 96–354, as amended (RFA), generally requires federal agencies to determine and consider the impact of proposed and final rules on small entities. Since 2003, the Board has defined ''small entity'' in this context as a credit union with less than $10 million in assets.[1] This proposed rule and IRPS 12–2 redefines ''small entity'' as a credit union with less than $30 million in assets. The proposed rule also amends 12 CFR 702.103, where a $10 million asset threshold is used to define a ''complex'' credit union for determining whether risk-based net worth requirements apply, and 12 CFR 741.3(b)(5)(i), set to go into effect September 30, 2012, where an asset range of $10 million to $50 million is used as part of the determination of whether a federally-insured credit union (FICU) is subject to certain interest rate risk rule requirements.

B. Why is the Board proposing this rule?

The Board is proposing this rule and IRPS to implement an updated measure of immediate and prospective regulatory relief for small FICUs across multiple applications, while avoiding undue risk to the National Credit Union Share Insurance Fund (NCUSIF). The Board believes the $10 million asset threshold used to define ''small entity'' for purposes of the RFA and for other provisions in NCUA's regulations where the Board has discretion to set asset thresholds is outdated. Increasing these thresholds will account for industry asset growth, consolidation, and inflation. It will provide an updated, reasonable, and historically consistent threshold for FICUs with respect to RFA coverage, regulatory compliance relief, and risk to the NCUSIF.

C. What is the history and purpose of the RFA?

Congress enacted the RFA in 1980 and amended it with the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. The RFA in part requires federal agencies to determine whether a proposed rule will have a significant economic impact on a substantial number of small entities.[2] If so, agencies must prepare an analysis that describes the proposed rule's impact on small entities.[3] The analysis must include descriptions of any significant alternatives that minimize the impact.[4] This requirement encourages federal agencies to give special consideration to the ability of smaller entities to absorb compliance burden imposed by new rules.

In 1981, the Board initially defined ''small entity'' for purposes of the RFA as any credit union with less than $1 million in assets.[5] IRPS 87–2 superseded IRPS 81–4 but retained the definition of ''small entity'' as a credit union with less than $1 million in

[1] IRPS 03–2, 68 FR 31949 (May 29, 2003).

[2] 5 U.S.C. 603, 604, 605(b). The term ''small entity'' as used in the RFA includes small businesses, small organizations, and small government jurisdictions. 5 U.S.C. 601(6). Credit unions fall within the definition of organization. 5 U.S.C. 601(4). The RFA gives agencies authority to establish their own definition of ''small entity.'' Id.

[3] Id.

[4] Id.

[5] IRPS 81–4, 46 FR 29248 (June 1, 1981).

assets.[6] The Board updated the definition in 2003 to include credit unions with less than $10 million in assets.[7] IRPS 87–2 and 03–2 are incorporated by reference into NCUA's rule governing the promulgation of regulations.[8]

When the Board updated its RFA threshold to $10 million, it noted that amendments to the Federal Credit Union Act (FCU Act) in 1998 employed a $10 million threshold for multiple new provisions.[9] These new provisions addressed the use of generally accepted accounting principles and voluntary audits; prompt corrective action for new credit unions; and assistance for small credit unions in filing net worth restoration plans.[10] IRPS 03–2 made the threshold in NCUA's RFA definition consistent with the $10 million threshold in the new FCU Act provisions. The Board has not increased its RFA threshold since 2003.

II. Rule as Proposed

This proposed rule and IRPS 12–2 will amend IRPS 87–2 and partially supersede IRPS 03–2 by changing the definition of ''small entity'' to include credit unions with less than $30 million in assets. The increased threshold will cause NCUA to give special consideration to the economic impact of proposed and final regulations on an additional 1,603 small credit unions, bringing the total covered by the RFA to 4,041. IRPS 12–2 will also commit the Board to review and consider adjusting the RFA threshold every three years and will be incorporated by reference into 12 CFR 791.8(a).

The asset threshold used as part of the definition of ''complex'' credit union in 12 CFR 702.103(a) will be increased to $30 million. This update will increase by 1,603, to a total of 4,041, the number of FICUs removed from the definition of ''complex'' based on asset size alone. This increase eliminates the possibility that these FICUs could become subject to PCA provisions, despite having at least six percent net worth.

Finally, the proposed rule amends the asset range in 12 CFR 741.3(b)(5)(i), NCUA's interest rate risk rule. In 12 CFR 741.3(b)(5)(i)(B) and (C), the minimum asset threshold will be changed from $10 million to $30 million for the asset range governing whether a FICU must adopt a written interest rate risk policy and program based on its first mortgage loans and investment maturities. The asset threshold of $10 million in 12 CFR 741.3(b)(5)(i)(D), which determines whether a FICU is categorically excluded from interest rate risk policy and program requirements, will be changed to $30 million. This change will increase by 1,603, to a total of 4,041, the number of FICUs that are categorically exempt, based on asset size alone, from adopting an interest rate risk policy and program.

As with IRPS 12–2, the Board intends to review and consider adjusting the thresholds in 12 CFR 702.103(a) and 741.3(b)(5)(i) at least once every three years.

A. Why is the period for public comment thirty days?

As a matter of policy, the Board believes the public should be given at least sixty days to comment on a proposed regulation.[11] In this case, however, the Board is issuing the proposed rule and IRPS with a thirty-day comment period to expedite regulatory relief for an additional group of small FICUs. Given the relatively narrow subject addressed in the proposed rule and IRPS, the Board believes thirty days appropriately balances the need for public comment and the collective interest in implementing near-term regulatory relief.

B. How did the board identify $30 million as an appropriate asset threshold for this proposed rule and IRPS?

The Board accounted for the following indicators in determining an appropriate threshold for the proposed rule and IRPS: (i) Industry percentages represented by FICUs with less than $10 million in assets at the time Congress implemented that threshold in various FCU Act provisions in 1998; (ii) the correlation of NCUSIF losses and FICU asset size; and (iii) FICU complexity and relative risk.

(i) Industry Percentages

When Congress enacted a $10 million threshold in various provisions of the FCU Act in 1998, FICUs below that threshold represented 60.4 percent of all FICUs and 5.5 percent of total system assets. In 2003, when the Board increased its RFA threshold to $10 million, these credit unions represented approximately 52 percent of all FICUs.[12] As of June 30, 2012, credit unions with less than $10 million in assets represented only 35.0 percent of FICUs and accounted for one percent of total system assets. The table below compares the 1998 characteristics to the 2012 characteristics of FICUs with less than $10 million in assets.

	December 1998	June 2012
Number of FICUs with < $10mm in assets	6,636	2,438
Percent of Total FICUs	60.4	35.0
Total Assets	$21,376,801,396	$9,735,413,650
Percent of Total System Assets	5.5	1.0
Total Net Worth	$2,911,019,491	$1,396,317,929
Percent of System Net Worth	6.9	1.4
Percent of NCUSIF	561.0	86.7

From 1998 to 2012, the number of FICUs with less than $10 million in assets declined by 63 percent and their total assets declined by over 54 percent. Shifting industry characteristics resulted in fewer credit unions with fewer collective assets receiving regulatory relief as credit unions grew in size and smaller FICUs merged at a faster rate than large FICUs.

As a principal reference point for determining a new asset threshold, the percentages of FICUs, assets, net worth, and NCUSIF equity that apply to a range of asset thresholds in 2012 are shown below, shaded where they most closely correspond to the 1998 percentages for FICUs with less than $10 million in assets.

[6] 52 FR 35231 (September 18, 1987).

[7] 68 FR 31949 (May 29, 2003).

[8] 12 CFR 791.8(a).

[9] 68 FR 31949, 31950 (May 29, 2003).

[10] 12 U.S.C. 1782(a)(6); 1790d.

[11] See IRPS 87–2, as amended by IRPS 03–2.

[12] 68 FR 31949, 31950 (May 29, 2003).

Threshold ($mm)	% FICUs	% Assets	% System net worth	% NCUSIF	Number FICUs
25	54.1	3.1	4.0	282.1	3,769
30	58.1	3.9	4.9	348.3	4,041
40	63.7	5.2	6.4	470.0	4,435
45	65.9	5.9	7.1	528.0	4,588

In addition to the percentages in this table, the Board notes that, assuming average industry asset growth, the average FICU with $10 million in assets in 1998 had $25.9 million in assets as of June 30, 2012.

Raising the RFA threshold to $30 million in assets will cause the percentage of FICUs under that threshold to be just over two percentage points less than the 1998 ratio. A $30 million threshold will also cause the percentage of system assets and net worth at FICUs under the threshold to be within two percentage points of the comparable 1998 ratios. Although raising the threshold to $40 million would also approximate asset size and net worth percentages from 1998, it would cause the percentage of FICUs included to exceed the 1998 percentage. The Board believes more incremental increases are appropriate and prudent, especially in light of the scheduled three-year review period.

(ii) NCUSIF Loss History

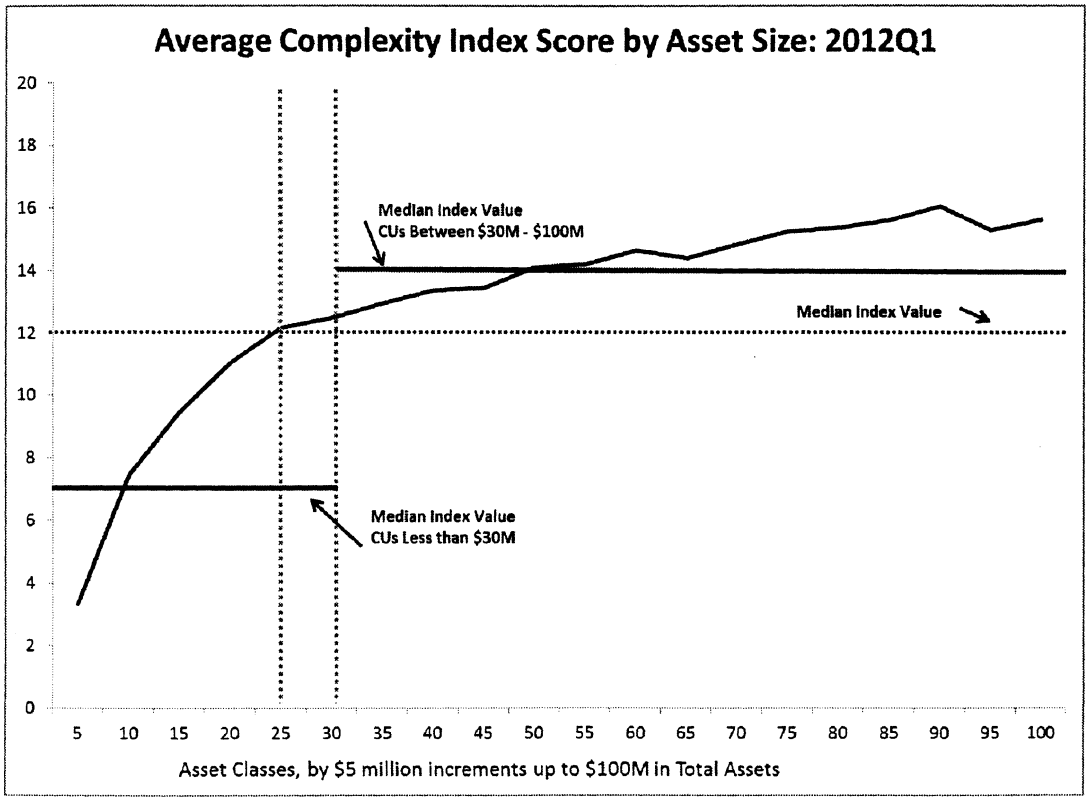
The following table shows the history of failures among credit unions of various asset sizes that caused NCUSIF losses from 1998 through 2012.

Assets ($mm)	Number of failures		NCUSIF loss ($mm)		Percentage of total NCUSIF losses	
	Failures for asset range	Cumulative	Loss for asset range	Cumulative	Percent for asset range	Cumulative (percent)
< $10	202	202	$116.1	$116.1	12.3	12.3
$10 to < $20	12	214	31.2	147.3	3.3	15.6
$20 to < $30	8	222	22.8	170.1	2.4	18.0
$30 to < $40	9	231	36.2	206.3	3.8	21.8
$40 to < $50	4	235	11.3	217.6	1.2	23.3
$50 to < $60	1	236	3.6	221.2	0.4	23.4
$60 to < $70	0	236	0.0	221.2	0.0	23.4
$70 to < $80	2	238	11.3	232.5	1.2	24.6
$80 to < $90	4	242	22.5	255.0	2.4	27.0
$90 to < $100	3	243	64.9	319.9	6.9	33.8
$100 to < $200	9	254	76.2	396.1	8.1	41.9
$200 to < $500	7	261	513.2	909.3	54.3	96.2
≥ $500	1	262	36.1	945.4	3.8	100.0

Since 1998, 202 FICUs with less than $10 million in assets failed, costing the NCUSIF $116 million, which represents only 12.3 percent of total period losses. Over the same period, FICUs with less than $30 million in assets accounted for only 18 percent of losses, although accounting for 222, or over 84 percent, of period failures. In comparison, 40 FICUs with more than $30 million in assets failed, costing the NCUSIF $775.3 million or 82 percent of period losses. Thus, despite the higher number of failures among smaller FICUs, the NCUSIF experienced immensely greater losses from the far fewer FICUs with more than $30 million in assets that have failed. While the same general conclusion could be drawn for some thresholds higher than $30 million, the complexity index discussed below weighs against adjusting the threshold higher than $30 million based on loss history alone. These loss figures confirm that a $30 million threshold would likely not pose undue risk to the NCUSIF based on recent trends.

(iii) Credit Union Complexity and NCUSIF Risk

The Board also evaluated asset thresholds in terms of credit union complexity. As an approximate measuring tool, NCUA generated a complexity index for FICUs by assigning points based on factors such as a FICU's cash and liquidity positions, whether it holds real estate or member business loans, and whether it invests in credit union service organizations. FICUs with a higher index tend to engage in a greater range of complex activities, which generally decreases the justification for regulatory relief. Using the complexity index, the $25 million to $30 million asset size approximates the point below which, on average, FICU complexity begins to decrease at the fastest rate. FICUs above $30 million in assets have a median complexity index value of 14, which is twice the median complexity index value of FICUs below $30 million in assets.



Based on industry percentage data, NCUSIF loss history data, and FICU complexity data, a $30 million threshold is reasonable and historically consistent. A $30 million threshold provides roughly the same percentage today of FICUs defined as small in 1998, representing a slightly lower proportion of total system assets and net worth. A $30 million threshold also provides a significant degree of assurance that the NCUSIF would not be subject to undue risk based on loss history and credit union complexity. Finally, the three-year review period this proposed rule and IRPS requires will provide opportunity for more routine evaluation and supports increasing the threshold moderately at this time.

C. How did the Board decide on a three-year review period?

The Board believes a scheduled review period is advisable to account for evolving industry characteristics. A three-year review period provides a reasonable time within which to discern new trends in percentage, loss, and complexity data. In addition, a three-year period is consistent with the long-standing review period NCUA uses for all its regulations. It provides sufficient time to avoid the uncertainty of a continuous cycle of rulemakings and policy adjustments that a shorter period could create.

The Board acknowledges the proposed amendments and potential adjustments every three years would reestablish the variation that previously existed between the asset thresholds in multiple sections of the FCU Act and the asset thresholds in certain regulatory provisions and in NCUA's RFA definition of ''small entity.'' Unless the Board leaves the adjustable asset thresholds at $10 million, this variation is unavoidable. The Board does not have authority to amend the FCU Act or numerous NCUA regulations where the FCU Act specifies an applicable asset threshold or range. The Board believes the proposed updates and review period will provide immediate and prospective relief that outweighs concerns about threshold variation.

D. How will the proposed rule and IRPS affect credit unions?

The change to the RFA threshold will ensure that regulatory relief will be more consistently and robustly considered for an additional 1,603 FICUs. A total of 4,041 FICUs with less than $30 million in total assets would come within the RFA's mandates. Future regulations, including the proposed emergency liquidity regulation, 77 FR 44503 (July 30, 2012), will be more thoroughly evaluated to determine whether FICUs below $30 million in assets should be exempted from some provisions or separately considered. The Board also intends to use the $30 million threshold when considering adjustments to examination schedules and developing policies and programs.

The proposed $30 million threshold for defining ''complex'' credit unions would categorically exclude 1,603 more FICUs from the definition of ''complex'' based on asset size alone, bringing the total FICUs excluded to 4,041. NCUA currently defines a ''complex'' credit union in 12 CFR 702.103 as one with more than $10 million in assets and with a risk-based net worth requirement of more than six percent. If a ''complex'' credit union fails its risk-based net worth requirement despite having at least six percent net worth, the credit union is subject to mandatory prompt corrective action (PCA) requirements.[13] These requirements govern earnings retention, net worth restoration plans, asset increases, and member business loans. Of the additional 1,603 credit unions that would be excluded, 230 FICUs with at least six percent net worth that currently must meet a risk-based net worth requirement would no longer be subject to the requirement. These FICUs will be removed one step further from the possibility of PCA requirements.

By increasing the lower threshold in NCUA's interest rate risk rule to $30

[13] 12 CFR 702.202(a).

million, 1,603 more FICUs would also be categorically excluded from complying with the interest rate risk rule based on asset size alone. Once again, this change would bring the total FICUs excluded to 4,041. The current version of the regulation, which goes into effect on September 30, 2012, will require all credit unions with more than $50 million in assets to adopt and implement an interest rate risk policy. In addition, the current version will require credit unions between $10 million and $50 million in assets holding combined first mortgages and investments with maturities greater than five years that equal or exceed net worth to adopt and implement an interest rate risk policy. Of the 1,603 additional FICUs that this proposed rule and IRPS would exclude, 620 that must adopt and implement an interest rate risk policy under the current rule would no longer be required to do so.

Despite adopting the $10 million to $50 million asset range for interest rate risk purposes as recently as January 2012, the Board believes the risk analysis above supports increasing the lower threshold to $30 million. The increase would also remain consistent with the analysis in the preamble to the interest rate risk rule.[14] A $30 million threshold is in the center of the $10 million to $50 million asset range in which interest rate risk begins to escalate most significantly.[15] The Board will separately consider whether the $50 million upper threshold should be changed or eliminated. The Board will also separately weigh whether the $30 million threshold should affect examination schedules, policies, and programs.

III. Regulatory Procedures

A. Regulatory Flexibility Act

The RFA requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (currently defined by NCUA as credit unions with under $10 million in assets). In this case, the proposed rule and IRPS expands the number of credit unions defined as small entities under the RFA. It also expands the number of credit unions eligible for relief from risk-based net worth and interest rate risk requirements. The proposed rule and IRPS therefore will not have a significant economic impact on a substantial number of credit unions under $10 million in assets that are already eligible for this relief.

With respect to additional credit unions that would be covered by the RFA, a significant component of the rule will provide prospective relief in the form of special and more robust consideration of their ability to handle compliance burden. This prospective relief is not yet quantifiable. Further, the proposed rule will reduce compliance burden for these credit unions and, therefore, will not raise costs in a manner that requires a regulatory flexibility analysis or a discussion of alternatives for minimizing the proposed rule's compliance burden. Accordingly, NCUA has determined and certifies that the proposed rule and IRPS will not have a significant economic impact on a substantial number of small entities. No regulatory flexibility analysis is required.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden.[16] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. The proposed changes to 12 CFR 702.103 and 741.3(b)(5)(i) will cause an immediate and prospective reduction in paperwork burden related to PCA requirements and interest rate risk policies for FICUs between $10 million and $30 million in assets. The proposed changes to IRPS 87–2, as amended by IRPS 03–2, will not create any new paperwork burden for credit unions. Thus, NCUA has determined that the requirements of this proposed rule and IRPS do not increase the paperwork requirements under the PRA and regulations of the Office of Management and Budget.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This proposed rule and IRPS 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. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule and IRPS will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

E. Agency Regulatory Goal

The Board's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule and IRPS is understandable and minimally intrusive if implemented as proposed.

List of Subjects

12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 741

Credit unions, Requirements for insurance.

12 CFR Part 791

Administrative practice and procedure, Sunshine Act.

By the National Credit Union Administration Board on September 20, 2012.

Mary Rupp,

Secretary of the Board.

Interpretive Ruling and Policy Statement 87–2

For the reasons stated above, IRPS 12–2 amends IRPS 87–2 (52 FR 35231, September 18, 1987) and partially supersedes IRPS 03–2 (68 FR 31949, May 29, 2003) by revising the second sentence in Section II, paragraph 2 of IRPS 87–2 and adding a sentence to the end of Section II, paragraph 2 of IRPS 87–2 to read as follows:

II. Procedures for the Development of Regulations

* * * * *

2. * * * NCUA will designate credit unions with less than $30 million in assets as small entities. * * * Every three years, the NCUA Board will review and consider adjusting the asset threshold it uses to define small entities for purposes of analyzing whether a regulation will have a significant economic impact on a substantial number of small entities.

* * * * *

For the reasons discussed above, the Board proposes to amend 12 CFR parts 702, 741 and 791 as follows:

[14] 77 FR 5155, 5157–5159 (February 2, 2012).

[15] Id.

[16] 44 U.S.C. 3507(d).

PART 702—PROMPT CORRECTIVE ACTION

1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

2. Section 702.103 is amended by:

a. Removing ''ten'' in paragraph (a) and replacing it with ''thirty''.

b. Removing ''($10,000,000)'' in paragraph (a) and replacing it with ''($30,000,000)''.

PART 741—REQUIREMENTS FOR INSURANCE

3. The authority for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790 and 1790d; 31 U.S.C. 3717.

§ 741.3 [Amended]

4. Section 741.3 is amended by removing the number ''10'' and replacing it with ''30'' wherever it appears in paragraph (b)(5)(i).

PART 791—RULES OF NCUA BOARD PROCEDURES; PROMULGATION OF NCUA RULES AND REGULATIONS; PUBLIC OBSERVATION OF NCUA BOARD MEETINGS

5. The authority for part 791 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789 and 5 U.S.C. 552b.

§ 791.8 [Amended]

6. Section 791.8 paragraph (a) is revised to read as follows:

NCUA's procedures for developing regulations are governed by the Administrative Procedure Act (5 U.S.C. 551 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and NCUA's policies for the promulgation of rules and regulations as set forth in its Interpretive Ruling and Policy Statement 87–2 as amended by Interpretive Ruling and Policy Statements 03–2 and 12–2.

[FR Doc. 2012–23662 Filed 9–25–12; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

RIN 3133–AE06

Investment and Deposit Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: The NCUA Board (Board) proposes to amend its investment regulation to allow federal credit unions (FCUs) to purchase Treasury Inflation Protected Securities (TIPS). This proposed amendment adds TIPS to the list of permissible investments for FCUs in part 703. The Board believes TIPS will provide FCUs with an additional investment portfolio risk management tool that can be useful in an inflationary economic environment.

DATES: Comments must be received on or before November 26, 2012.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Proposed Rule 703, Investment and Deposit Activities'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Associate General Counsel, Office of General Counsel, at the above address or telephone (703) 518–6540, or J. Owen Cole, Jr., Director, Division of Capital Markets, Office of Examination and Insurance, at the above address or telephone (703) 518–6360.

SUPPLEMENTARY INFORMATION:

I. Background
II. Regulatory Procedures

I. Background

A. Why is the NCUA Board proposing this rule?

The Board is proposing this rule because, after extensive research and analysis as discussed more fully below, it believes TIPS can be a valuable risk management tool for FCUs. The Board also believes FCUs have the ability to manage the risks associated with TIPS and can benefit from including them in their overall investment portfolio. In addition to analyzing the nature and performance of TIPS in the marketplace, NCUA has monitored FCU usage of TIPS through a long-term investment pilot program. The results of the pilot program are consistent with the Board's opinion that TIPS are an appropriate investment for FCUs and can be a valuable portfolio management tool when there are inflationary risks in the economy.

Accordingly, for the reasons discussed above, NCUA proposes to make TIPS permissible under part 703.

B. What is a TIPS?

TIPS [1] is a security issued by the U.S. Department of the Treasury, Bureau of Public Debt, which is readily available to investors. TIPS differ from other securities by providing protection against inflation. The principal of a TIPS increases with inflation and decreases with deflation, as measured by the Bureau of Labor Statistic's Consumer Price Index (CPI).[2] When a TIPS matures, the holder is paid the adjusted principal or original principal, whichever is greater. TIPS pay interest twice a year at a fixed rate. The rate is applied to the adjusted principal, so, like the principal, interest payments rise with inflation and fall with deflation. In a deflationary period, it is possible to experience a contractual decline in the principal balance, which is not an event of default.

C. Analysis of TIPS and Part 703

Overview

TIPS are currently a prohibited investment under part 703 because they reprice their value in response to changes in the CPI, and the CPI is a prohibited index for variable rate

[1] To learn more about TIPS, see the U.S. Department of the Treasury, Bureau of Public Debt Web site at: *http://www.treasurydirect.gov/indiv/research/indepth/tips/res_tips.htm.*

[2] The CPI program produces monthly data on changes in the prices paid by urban consumers for a representative basket of goods and services. To learn more about how the CPI is produced, see the Bureau of Labor Statistics ''Frequently Asked Questions'' on CPI, found at: *http://www.bls.gov/cpi/cpifaq.htm.*

instruments. Under § 703.14(a), an FCU is permitted to invest in a variable rate instrument as long as the rate is tied to a domestic interest rate.[3] 12 CFR 703.14(a).

The purpose of this provision is to reduce the basis risk between the interest earned on assets and the dividends paid on shares.[4] Generally, deposit/share rates for financial institutions, including credit unions, are responsive to market interest rates. As market rates change, so do the deposit/share rates. Thus, if an FCU invests in a variable rate instrument with an index tied to market rates, the spread between the asset's income stream and the share dividends paid should remain relatively constant. This protects the FCU's earnings in times of rate volatility, especially in periods of rising rates.

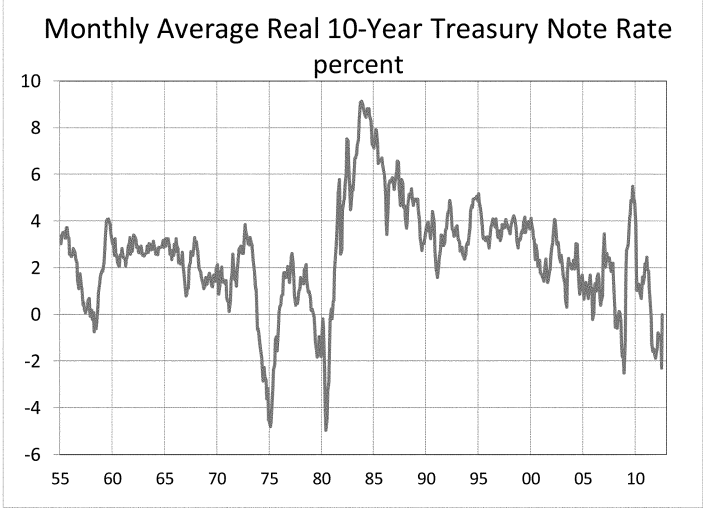
However, there is not always a perfect correlation between market interest rates and deposit/share rates. This can result in greater volatility for an FCU if it does not take action to manage this basis risk.

Why TIPS Should Be Permissible

As noted, FCUs are permitted to invest in variable rate instruments where the index is tied to a domestic interest rate. Common domestic interest rates include the Fed Funds rate, Treasury rates, and LIBOR. Despite the common label ''domestic interest rate,'' each of these rates is not perfectly correlated with the others. There is certainly some measure of correlation, but an FCU can be exposed to earnings variability if it invests in variable rate assets tied to one rate, LIBOR rates for example, and prices its shares on another, Treasury rates for example.

Historically, the Board has prohibited variable rate instruments tied to non-domestic rate indices because of the basis risk for FCUs. While the Board remains concerned about basis risk, it recognizes that FCUs now have greater access to advanced asset-liability management tools that can identify and measure basis risk, and are therefore better equipped to manage such risk associated with adding CPI as a permissible index.

- The adjacent graph shows that the "ex-post" real interest rate – the nominal 10-year Treasury rate less the 1-year inflation rate – turned sharply negative in the mid-1970s and the late 1970s/early 1980s.
- These periods coincide with an unexpected acceleration of inflation.
- The negative real interest signals that someone holding a 10-year Treasury during that period was losing real purchasing power, as a result of not being able to forecast inflation accurately.



Allowing FCUs to hold TIPS in their investment portfolios adds no credit risk and allows them the option of minimizing the need for accurate inflation forecasting as a way to maintain the real value of their investment portfolios.

D. Caution in Investing in TIPS

The Board believes the authority to invest in TIPS for the purpose of protecting against inflation risk can be a valuable part of an effective risk management program for FCUs that understand the risks. TIPS may not be appropriate for all FCUs. As with any investment, the decision to purchase TIPS should be based upon sound due diligence and a demonstrated effectiveness in managing risk. This proposal authorizes FCUs to purchase TIPS only. Other similar securities based on inflation indices currently available or available in the future that are not issued by the United States Treasury Department are not authorized by this rule. The current TIPS pilot program will expire in the event this proposal is eventually finalized by the Board.

II. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). This proposed rule reduces compliance burden and extends regulatory relief while maintaining existing safety and soundness standards. NCUA has determined this proposed rule will not have a significant economic impact on a substantial number of small credit unions.

[3] (a) *Variable rate investment.* A Federal credit union may invest in a variable rate investment, as long as the index is tied to domestic interest rates and not, for example, to foreign currencies, foreign interest rates, or domestic or foreign commodity prices, equity prices, or inflation rates. For purposes of this part, the U.S. dollar-denominated London Interbank Offered Rate (LIBOR) is a domestic interest rate.

[4] Basis risk is a common form of risk incurred by financial institutions, including credit unions. Basis risk is the variability between two or more indices (*e.g.,* equity barometers such as the S&P 500, and interest rate indices such as the 1-year Treasury rate) that serve as benchmarks for valuing financial institution assets and liabilities.

Paperwork Reduction Act

NCUA has determined that the requirements of this rule do not increase the paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This proposed rule 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. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

List of Subjects

12 CFR Part 703

Credit unions, Investments.

By the National Credit Union Administration Board on September 20, 2012.

Mary Rupp,

Secretary of the Board.

For the reasons discussed above, NCUA proposes to amend 12 CFR part 703 as follows:

PART 703—INVESTMENT AND DEPOSIT ACTIVITES

1. The authority citation for part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

2. Revise § 703.14(a) to read as follows:

§ 703.14 Permissible investments.

(a) Variable rate investment. A federal credit union may invest in a variable rate investment, as long as the index is tied to domestic interest rates and not, for example, to foreign currencies, foreign interest rates, or domestic or foreign commodity prices, equity prices, or inflation rates with the exception of Treasury Inflation Protected Securities. For purposes of this part, the U.S. dollar-denominated London Interbank Offered Rate (LIBOR) is a domestic interest rate.

[FR Doc. 2012–23644 Filed 9–25–12; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1001; Directorate Identifier 2012–NM–020–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft 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 Cessna Aircraft Company Model 500, 501, 550, 551, S550, 560, 560XL, and 650 airplanes. This proposed AD was prompted by multiple reports of smoke and/or fire in the tailcone caused by sparking due to excessive wear of the brushes in the air conditioning (A/C) motor. This proposed AD would require an inspection to determine the accumulated hours on certain A/C drive motor assemblies; repetitive replacement of the brushes in the drive motor assembly, or as an option to the brush replacement, deactivation of the air conditioner; and return of replaced brushes to Cessna. We are proposing this AD to prevent the brushes in the A/C motor from wearing down beyond their limits, which could result in the rivet in the brush contacting the commutator causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

DATES: We must receive comments on this proposed AD by November 13, 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 Cessna Aircraft Co., P.O. Box 7706, Wichita, KS 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com;* Internet *https://www.cessnasupport.com/newlogin.html.* 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 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: Christine Abraham, Aerospace Engineer, Electrical Systems and Avionics, ACE–119W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: 316–946–4165; fax: 316–946–4107; email: *wichita-cos@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–2012–1001; Directorate Identifier 2012–NM–020–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received more than 10 reports of smoke/fire (three reports of fire) in the tailcone of Cessna Aircraft Company Model 525, 550, and 560 airplanes, where investigation revealed brushes had worn beyond their limits on the part number (P/N) 1134104–1 A/

C compressor motors. The motor assembly is located in the airplane tailcone where flammable fluids in the form of fuel lines and hydraulics are present. There is no fire detection or extinguishing system in the tailcone. We are proposing this AD to prevent the brushes in the air conditioning motor from wearing down beyond their limits, which could result in the rivet in the brush contacting the commutator causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

The subject part, P/N 1134104–1 A/C compressor motors, might also be installed on Model 500, 501, 551, S550, 560XL, and 650 airplanes. Therefore, those Model 500, 501, 551, S550, 560XL, and 650 airplanes might be subject to the unsafe condition revealed on Model 525, 550, and 560 airplanes.

Relevant Service Information

We have reviewed the following service information:

- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 10, dated April 23, 2012, of the Cessna Model 550, –0801 and On Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 8, dated April 23, 2012, of the Cessna Model 550/551 Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 20, dated April 23, 2012, of the Cessna Model 560, –0001 and On Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 13, dated April 23, 2012, of the Cessna Model 560XL, (560XL –5001 thru –5500), (560XL –5501 thru –6000), (560XL –6001 and On) Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 30, dated April 23, 2012, of the Cessna Model 650 Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 4, dated April 23, 2012, of the Cessna Model 500/501, (–0001 thru –0349), (–0350 thru –0689) Maintenance Manual.
- Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 7, dated April 23, 2012, of the Cessna Model S550 Maintenance Manual.

The service information describes procedures for replacement of life-limited components including P/N 1134104–1 A/C compressor motor brushes.

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 an inspection to determine if certain A/C compressor motors are installed, an inspection of the A/C compressor hour meter that has P/N 1134104–1 or 1134104–5 A/C compressor motors installed, repetitive replacement of the brushes, or deactivation of the A/C system with installation of a placard prohibiting use of the A/C system until replacement of the brushes as an option to the brush replacement. This proposed AD would also require, when the brushes are replaced, reporting of aircraft information related to the replacement of the brushes and sending the replaced motor brushes to Cessna Aircraft Company for two replacement cycles.

Interim Action

We consider this proposed AD interim action. The reporting data required by this proposed AD will enable us to obtain better insight into brush wear. The reporting data will also indicate if the replacement intervals we established are adequate. After we analyze the reporting data received, we might consider further rulemaking.

Model 525 airplanes are not subject to this proposed AD. We are currently considering requiring similar actions for these airplanes.

Costs of Compliance

We estimate that this proposed AD will affect 1,987 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
Inspection, drive motor assembly brush replacement; and parts return and reporting.	11 work-hours × $85 per hour = $935 per replacement cycle.	$252 per replacement cycle	$1,187 per replacement cycle.	$2,358,569 per replacement cycle

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):

Cessna Aircraft Company: Docket No. FAA–2012–1001; Directorate Identifier 2012–NM–020–AD.

(a) Comments Due Date

We must receive comments by November 13, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Cessna Aircraft Company airplanes, certificated in any category.

(1) Model 500 and 501 airplanes, serial number (S/N) 0001 through 0689 inclusive.

(2) Model 550 and 551 airplanes, S/N 0002 through 0733 inclusive, and 0801 through 1136 inclusive.

(3) Model S550 airplanes, S/N 0001 through 0160 inclusive.

(4) Model 560 airplanes, S/N 0001 through 0707 inclusive, and 0751 through 0815 inclusive.

(5) Model 560XL airplanes, S/N 5001 through 5300 inclusive.

(6) Model 650 airplanes, S/N 0200 through 0241 inclusive, and 7001 though 7119 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 21, Air Conditioning.

(e) Unsafe Condition

This AD was prompted by multiple reports of smoke and/or fire in the tailcone caused by sparking due to excessive wear of the brushes in the air conditioning (A/C) motor. We are issuing this AD to prevent the brushes in the A/C motor from wearing down, which could result in the rivet in the brush contacting the commutator causing sparks and consequent fire and/or smoke in the tailcone with no means to detect or extinguish the fire and/or smoke.

(f) Compliance

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

(g) Part Number (P/N) Inspection

Within 30 days or 10 flight hours after the effective date of this AD, whichever comes first: Inspect the A/C compressor motor to determine whether P/N 1134104–1 or P/N 1134104–5 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the A/C compressor motor can be conclusively determined from that review.

(h) Inspection of Compressor Hour Meter and Maintenance Records

If during the inspection required by paragraph (g) of this AD, any A/C compressor motor is found having P/N 1134104–1 or P/N 1134104–5: Within 30 days or 10 flight hours after the effective date of this AD, whichever occurs first, determine the hour reading on the A/C compressor hour meter as specified in paragraphs (h)(1) and (h)(2) of this AD:

(1) Inspect the number of hours on the A/C compressor hour meter; and

(2) Check the airplane logbook for any entry for replacing the A/C compressor motor brushes with new brushes, or for replacing the compressor motor or compressor condenser module assembly (pallet) with a motor or assembly that has new brushes;

(i) If the logbook contains an entry for replacement of parts as specified in paragraph (h)(2) of this AD, determine the number of hours on the A/C compressor motor brushes by comparing the number of hours on the compressor motor since replacement and use this number in lieu of the number determined in paragraph (h)(1) of this AD; or

(ii) If through the logbook check you cannot positively determine the number of hours on the A/C compressor motor brushes as specified in paragraph (h)(2) of this AD, use the number of hours on the A/C compressor hour meter determined in paragraph (h)(1) of this AD or presume the brushes have over 500 hours time-in-service.

(i) Replacement

Using the hour reading on the A/C compressor hour meter determined in paragraph (h) of this AD, replace the A/C compressor motor brushes with new brushes at the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD. Thereafter, repeat the replacement of the A/C compressor motor brushes at intervals not to exceed every 500 hours time-in-service on the A/C compressor motor. Do the replacement in accordance with the applicable Cessna maintenance manual listed in paragraphs (i)(3)(i) through (i)(3)(vii) of this AD.

(1) Before or when the A/C compressor motor reaches a total of 500 hours time-in-service; or

(2) Before further flight after the inspection required in paragraph (h) of this AD.

(3) Replace the A/C compressor motor brushes in accordance with the instructions in the applicable Cessna maintenance manual specified in paragraphs (i)(3)(i) through (i)(3)(vii) of this AD.

(i) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 10, dated April 23, 2012, of the Cessna Model 550, –0801 and On Maintenance Manual.

(ii) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 8, dated April 23, 2012, of the Cessna Model 550/551 Maintenance Manual.

(iii) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 20, dated April 23, 2012, of the Cessna Model 560, –0001 and On Maintenance Manual.

(iv) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 13, dated April 23, 2012, of the Cessna Model 560XL, (560XL–5001 thru –5500), (560XL–5501 thru –6000), (560XL –6001 and On) Maintenance Manual.

(v) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 30, dated April 23, 2012, of the Cessna Model 650 Maintenance Manual.

(vi) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 4, dated April 23, 2012, of the Cessna Model 500/501, (–0001 thru –0349), (–0350 thru –0689) Maintenance Manual.

(vii) Subject 4–11–00, Replacement Time Limits, of Chapter 4, Airworthiness Limitations, Revision 7, dated April 23, 2012, of the Cessna Model S550 Maintenance Manual.

(j) Deactivation/Reactivation

(1) In lieu of replacing the A/C compressor motor brushes as required by this AD, deactivate the A/C as follows: Pull the vapor cycle A/C circuit breaker, install a placard by the A/C selection switch prohibiting use of the vapor cycle air conditioner, and document deactivation of the system in the airplane logbook referring to this AD as the reason for deactivation. While the system is deactivated, airplane operators must remain aware of operating temperature limitations as detailed in the specific airplane flight manual.

(2) If an operator chooses to deactivate the system and then later chooses to return the A/C to service: Before returning the A/C system to service and removing the placard, perform the inspection specified in paragraph (h) of this AD, and do the replacements specified in paragraph (i) of this AD at the times specified in paragraph (i) of this AD.

(k) Parts Return and Reporting Requirement

For the first two A/C compressor motor brush replacement cycles on each airplane, send the brushes that were removed to Cessna Aircraft Company, Cessna Service Parts and Programs, 7121 Southwest Boulevard, Wichita, KS 67215. Provide the information specified in paragraphs (k)(1) through (k)(6) of this AD, at the applicable

time specified in paragraph (k)(7) or (k)(8) of this AD, along with the brushes.

(1) The model and serial number of the airplane.

(2) The part number of the motor.

(3) The part number of the brushes, if known.

(4) The elapsed amount of motor hours since the last brush/motor replacement, if known.

(5) If motor hours are unknown, report the elapsed airplane flight hours since the last brush/motor replacement and indicate that motor hours are unknown; and

(6) The number of motor hours currently displayed on the pallet hour meter.

(7) If the replacement was done on or after the effective date of this AD: Within 30 days after the replacement.

(8) If the replacement was done before the effective date of this AD: Within 30 days after the effective date of this AD.

(l) Parts Installation Prohibition

As of the effective date of this AD, no person may install an A/C compressor motor having P/N 1134104–1 or P/N 1134104–5, unless the inspection specified in paragraph (h) of this AD is done before further flight, and the replacements specified in paragraph (i) of this AD are done at the times specified in paragraph (i) of this AD.

(m) Special Flight Permit

Operation of the A/C system is prohibited while flying with a special flight permit issued for this AD.

(n) 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.

(o) Alternative Methods of Compliance (AMOCs)

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

(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.

(p) Related Information

(1) For more information about this AD, contact Christine Abraham, Aerospace Engineer, Electrical Systems and Avionics, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4165; fax: 316–946–4107; email: *wichita-cos@faa.gov.*

(2) For service information identified in this AD, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, KS 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@cessna.textron.com*; Internet *https://www.cessnasupport.com/newlogin.html.* 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.

Issued in Renton, Washington, on September 19, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23639 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1002; Directorate Identifier 2012–NM–052–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes); and Model A310 series airplanes. This proposed AD was prompted by reports of cracking through the honeycomb core closed with phenolic resin. This condition could result in extended debonding and could adversely affect the structural integrity of the rudder. This proposed AD would require inspecting to determine the serial number of a certain rudder and replacing the rudder with a new or serviceable rudder if necessary. We are proposing this AD to prevent extended de-bonding, which could result in loss of the rudder and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by November 13, 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.

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–2012–1002; Directorate Identifier 2012–NM–052–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 2012–0006, dated January 12, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Following in-service findings reported by an operator, rudder laboratory investigation revealed the existence of a crack through the honeycomb core closed with phenolic resin. This condition if not detected and corrected, could result in extended de-bonding, which would adversely affect the structural integrity of the rudder. The loss of the rudder could lead to degradation of the handling qualities and reduces the controllability of the aeroplane.
>
> Further investigations identified a batch of five affected rudders.
>
> For the reasons described above, this [EASA] AD requires [inspecting to determine the serial number (S/N) of a certain rudder and] the replacement of the five affected rudders with [new or] serviceable ones.

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

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 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 170 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $14,450, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours and require parts costing $714,100, for a cost of $714,950 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–2012–1002; Directorate Identifier 2012–NM–052–AD.

(a) Comments Due Date

We must receive comments by November 13, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; certificated in any category; all serial numbers, except those airplanes on which Airbus modification 08827 has been incorporated in production.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracking through the honeycomb core closed with phenolic resin. This condition could result in extended debonding and could adversely affect the structural integrity of the rudder. We are issuing this AD to prevent extended de-bonding, which could result in loss of the rudder and consequent reduced 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) Inspection

Within 3 months after the effective date of this AD, inspect the rudder having part number (P/N) A55471500, to determine if the rudder has serial number (S/N) HF1010, HF1036, HF1059, HF1061, or HF1064. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the rudder can be conclusively determined from that review.

(h) Rudder Replacement

If, during the inspection required by paragraph (g) of this AD, any rudder having S/N HF1010, HF1036, HF1059, HF1061, or HF1064 is found, before further flight, replace the rudder with a new or serviceable rudder, 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).

Note 1 to Paragraph (h) of this AD: Rudders having S/N HF1010, HF1036, HF1059,

HF1061, and HF1064 were installed on airplanes having S/N 0295, 0297, 0321, 0355, and 0500; however, each rudder may have been moved to another airplane.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install a rudder P/N A55471500, having S/N HF1010, HF1036, HF1059, HF1061, or HF1064, on any airplane.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, 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.

(k) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2012–0006, dated January 12, 2012, for related information.

Issued in Renton, Washington, on September 12, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23638 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM12–12–000]

Regional Reliability Standard PRC–006–NPCC–1—Automatic Underfrequency Load Shedding

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Under section 215 of the Federal Power Act (FPA),[1] the Federal Energy Regulatory Commission (Commission) proposes to approve regional Reliability Standard PRC–006–NPCC–1 (Automatic Underfrequency Load Shedding). The North American Electric Reliability Corporation (NERC) submitted the proposed regional Reliability Standard to the Commission for approval. The proposed regional Reliability Standard applies to generator owners, planning coordinators, distribution providers, and transmission owners in the Northeast Power Coordinating Council Region and is designed to ensure the development of an effective automatic underfrequency load shedding (UFLS) program to preserve the security and integrity of the Bulk-Power System during declining system frequency events, in coordination with the NERC continent-wide UFLS Reliability Standard PRC–006–1. The Commission also proposes to approve the associated violation risk factors and violation severity levels, implementation plan, and effective dates proposed by NERC.

DATES: Comments are due November 26, 2012.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document

FOR FURTHER INFORMATION CONTACT:

Enakpodia Agbedia (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6750, *Enakpodia.Agbedia@ferc.gov.*

Matthew Vlissides (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8408, *Matthew.Vlissides@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

Issued September 20, 2012

1. Under section 215 of the Federal Power Act (FPA), the Federal Energy Regulatory Commission (Commission) proposes to approve regional Reliability Standard PRC–006–NPCC–1 (Automatic Underfrequency Load Shedding). The North American Electric Reliability Corporation (NERC) submitted the proposed regional Reliability Standard to the Commission for approval. The proposed regional Reliability Standard applies to generator owners, planning coordinators, distribution providers, and transmission owners in the Northeast Power Coordinating Council (NPCC) Region and is designed to ensure the development of an effective automatic underfrequency load shedding (UFLS) program to preserve the security and integrity of the Bulk-Power System during declining system frequency events, in coordination with NERC's continent-wide UFLS Reliability Standard PRC–006–1.

2. The Commission also proposes to approve the associated violation risk factors (VRF) and violation severity levels (VSL), implementation plan, and effective dates proposed by NERC.

I. Background

A. Mandatory Reliability Standards

3. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards that are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.[2]

4. A Regional Entity may develop a Reliability Standard for Commission approval to be effective in that region

[1] 16 U.S.C. 824(o) (2006).

[2] *See* 16 U.S.C. 824o(e) (2006).

only.[3] In Order No. 672, the Commission stated that:

As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) a regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.[4]

5. On April 19, 2007, the Commission accepted delegation agreements between NERC and each of the eight Regional Entities.[5] In the order, the Commission accepted NPCC as a Regional Entity.

6. NERC Reliability Standard PRC–006–1 establishes continent-wide design and documentation requirements for UFLS programs that arrest declining frequency and assist recovery of frequency following system events leading to frequency degradation.

B. Proposed Regional Reliability Standard PRC–006–NPCC–1

7. On May 4, 2012, NERC petitioned the Commission to approve proposed regional Reliability Standard PRC–006–NPCC–1 and the associated VRFs and VSLs, effective dates, and implementation plan.[6] NERC states that the proposed regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest because it satisfies the factors set forth in Order No. 672, which the Commission applies when reviewing a proposed Reliability Standard.[7] NERC states that PRC–006–NPCC–1 also satisfies the additional criteria required for approval of regional Reliability Standards because it adds specificity not contained in the NERC continent-wide UFLS Reliability Standard PRC–006–1.[8]

8. Proposed regional Reliability Standard PRC–006–NPCC–1 has 23 requirements, each having an associated measure of compliance. The proposed standard also includes Figure 1, which includes a curve that establishes a threshold for setting underfrequency trip protection for generators in the portion of the NPCC Region in the Eastern Interconnection. NERC explains that the proposed regional Reliability Standard is based on the program characteristics defined within NPCC Directory #12 Underfrequency Load Shedding Program Requirements, which contains the criteria that govern the NPCC Automatic UFLS program that have been in place since June 26, 2009.[9] NERC states that the proposed regional Reliability Standard will achieve a coordinated, comprehensive UFLS region-wide consistent program within the NPCC Region and provides the regional requirements necessary to achieve and facilitate the broader program characteristics contained in the requirements of the NERC Reliability Standard PRC–006–1.[10] NERC states that the proposed regional Reliability Standard is designed to work in conjunction with and augment Reliability Standard PRC–006–1 by mitigating the consequences of an underfrequency event, while accommodating differences in system transmission and distribution topology among NPCC planning coordinators due to historical design criteria, makeup of load demands, and generation resources.[11] NERC further states that the proposed regional Reliability Standard also facilitates uniformity, compliance, and clearly delineates what the applicable entities' requirements are within the NPCC Region to achieve a robust, reliable and effective UFLS program.[12]

9. NERC also proposes VRFs and VSLs for each requirement of the proposed regional Reliability Standard and an implementation plan and effective dates. NERC states that these proposals were developed and reviewed for consistency with NERC and Commission guidelines.

10. NERC proposes two effective dates for the proposed regional Reliability Standard. NERC states that Requirements R1 through R7 would become effective on the first day of the first calendar quarter following applicable regulatory approval but no earlier than January 1, 2016. The implementation plan states that the January 1, 2016 effective date for Requirements R1 through R7 is meant to allow for completion of the on-going six-year implementation period for NPCC Directory #12 Underfrequency Load Shedding Program Requirements.[13] The implementation plan provides that the plan for ''this standard is based, in part, on the timelines reflected in the existing and ongoing Implementation Plan for NPCC Directory #12 absent the annual milestones required by Directory #12.'' [14] With respect to Requirements R8 through R23, NERC proposes that they become effective the first day of the first calendar quarter two years following applicable regulatory approval.

II. Discussion

A. PRC–006–NPCC–1

11. Pursuant to FPA section 215(d)(2), we propose to approve regional Reliability Standard PRC–006–NPCC–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. Proposed regional Reliability Standard PRC–006–NPCC–1 is designed to operate in conjunction with the NERC continent-wide UFLS Reliability Standard PRC–006–1 by mitigating the consequences of underfrequency events, while accommodating differences in system transmission and distribution topology among NPCC planning coordinators due to historical design criteria, makeup of load demands, and generation resources.

12. The proposed regional Reliability Standard includes requirements not found in the corresponding NERC continent-wide UFLS Reliability Standard PRC–006–1 that are more stringent than Reliability Standard PRC–006–1 and accommodate differences in system transmission and distribution topology among NPCC planning coordinators due to historical design criteria, makeup of load demands, and generation resources.[15]

13. For example, the generator underfrequency trip threshold in PRC–

[3] 16 U.S.C. 824o(e)(4). A Regional Entity is an entity approved by the Commission to enforce Reliability Standards under delegated authority from the ERO. *See* 16 U.S.C. 824o(a)(7) and (e)(4).

[4] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, at P 291, order on reh'g, Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006)).

[5] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,060, *order on reh'g,* 120 FERC ¶ 61,239 (2007).

[6] Proposed regional Reliability Standard PRC–006–NPCC–1 is available on the Commission's eLibrary document retrieval system in Docket No. RM12–12–000 and on the NERC Web site, *www.nerc.com.* On August 3, 2012, NERC filed an errata attaching the proposed implementation plan.

[7] NERC Petition at 9–29 (citing Order No. 672, FERC Stats. & Regs. ¶ 31,204 at PP 323–335, 444).

[8] NERC Petition at 29–30.

[9] *Id.* at 11.

[10] *Id.* at 29–30.

[11] *Id.* at 30.

[12] *Id.*

[13] NPCC Directory #12 Underfrequency Load Shedding Program Requirements contains the pre-existing criteria that govern the NPCC Automatic UFLS program developed by the NPCC Working Group on Inter-Area Dynamic Analysis. NERC Petition at 11. The implementation plan was submitted as an exhibit to the August 3, 2012 NERC errata filing. As found on the Commission's eLibrary system in Docket No. RM12–12–000, the implementation plan is located in Exhibit A (PRC–006–NPCC–1—Automatic Underfrequency Load Shedding Regional Reliability Standard Proposed and Implementation Plan for Approval) of the errata filing beginning at page 29 of the PDF electronic file submitted by NERC.

[14] *Id.*

[15] NERC Petition at 29–30.

006–NPCC–1, Requirement R13 is more stringent than the threshold specified in the continent-wide Reliability Standard PRC–006–1. Requirement R13 of the proposed regional Reliability Standard requires generator owners to set their generator underfrequency trip relay setting below the generator underfrequency trip protection settings threshold shown in Figure 1, except as otherwise provided in Requirements R16 and R19. This requirement is more stringent than the corresponding requirement in Reliability Standard PRC–006–1, Requirement R4, because the continent-wide Reliability Standard requires a higher generator underfrequency trip setting.[16] In addition, the continent-wide Reliability Standard PRC–006–1 does not require generator owners to have compensatory load shedding provisions if their units trip above the underfrequency tripping threshold requirements specified in PRC–006–1, Attachment 1. By contrast, proposed regional Reliability Standard PRC–006–NPCC–1, Requirement R16.3, requires that each generator owner of existing non-nuclear units ''[h]ave compensatory load shedding, as provided by a Distribution Provider or Transmission Owner that is adequate to compensate for the loss of their generator due to early tripping.'' [17] The proposed regional Reliability Standard PRC–006–NPCC–1 is therefore more stringent, while also accommodating NPCC's generation resource mix, because it requires compensatory load shedding by existing non-nuclear units, but not existing nuclear units, to make up for the loss of generation due to early tripping of the generators.[18]

14. While we propose to approve regional Reliability Standard PRC–006–NPCC–1, the Commission seeks comment on: (1) the technical basis for the 57.8 Hz maximum tripping limit for existing nuclear units established in Requirement R19; and (2) the time-frames for actions that result in changes to the NPCC UFLS program.

15. First, Requirement R19 of the proposed regional Reliability Standard for existing nuclear generating plants provides that:

R19 Each Generator Owner of existing nuclear generating plants with units that have underfrequency relay threshold settings above the Eastern Interconnection generator tripping curve in Figure 1, based on their licensing design basis, shall: [Violation Risk Factor: High] [Time Horizon: Long Term Planning]

19.1 Set the underfrequency protection to operate at as low a frequency as possible in accordance with the plant design licensing limitations but not greater than 57.8Hz

19.2 Set the frequency trip setting upper tolerance to no greater than + 0.1 Hz

19.3 Transmit the initial frequency trip setting and any changes to the setting and the technical basis for the settings to the Planning Coordinator

16. The NERC petition does not explain the technical basis for establishing 57.8 Hz as the maximum frequency at which existing nuclear units may trip pursuant to Requirement R19.1. The NERC petition states that the proposed regional Reliability Standard was based on the work of an NPCC working group.[19] However, the NERC petition and its attachments do not provide any information as to how the 57.8 Hz figure was developed. We seek comment from NPCC, NERC, and other interested entities explaining the technical basis for the 57.8 Hz limit established in Requirement R19.1.

17. Second, Requirement R3 of NERC's Reliability Standard PRC–006–1 requires the planning coordinator to set the schedule for the distribution providers and transmission owners to implement the UFLS program. The regional Reliability Standard PRC–006–NPCC–1, Requirements R5, R16.2, and R19.3, require distribution providers, transmission owners, and generator owners to provide, inform, and transmit exceptions to the UFLS program and justifications for the exceptions to the planning coordinator. The requirements, however, do not specify a time-frame for the completion of these actions. Requirements R5, R16.2, and R19.3 address actions that can result in changes to the UFLS program and should occur before the UFLS program is implemented, thus making it necessary for entities to provide the required information to the planning coordinator within a specified period of time. We note there are other requirements in the proposed regional Reliability Standard that also require actions of distribution providers, transmission owners, and generator owners that should occur before the UFLS program is implemented that include specific time-frames.[20] The Commission seeks comment on whether Requirements R5, R16.2, and R19.3 should also specify time-frames for completion of the required actions and, if so, the appropriate time-frames for each.

B. Violation Risk Factors and Violation Severity Levels

18. NERC states that each Requirement of the proposed regional Reliability Standard PRC–006–NPCC–1 includes one VRF and one VSL and that the ranges of penalties for violations will be based on the sanctions table and supporting penalty determination process described in the Commission-approved NERC Sanctions Guideline. The Commission proposes to approve the VRFs and VSLs for regional Reliability Standard PRC–006–NPCC–1 proposed by NERC as consistent with the Commission's established guidelines.[21]

C. Implementation Plan and Effective Dates

19. NERC proposes that Requirements R1 through R7 become effective on the first day of the first calendar quarter following applicable regulatory approval but no earlier than January 1, 2016 while Requirements R8 through R23 become effective the first day of the first calendar quarter two years following applicable regulatory approval. NERC states that the implementation plan provides that ''this standard is based, in part, on the timelines reflected in the existing and ongoing Implementation Plan for NPCC Directory #12 absent the annual milestones required by Directory #12.'' [22] The Commission proposes to accept the implementation plan and effective dates proposed by NERC for regional Reliability Standard PRC–006–NPCC–1.

III. Information Collection Statement

20. The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and recordkeeping (collections of information) imposed by an agency.[23] Upon approval of a collection(s) of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing

[16] Higher underfrequency trip settings result in generators tripping offline sooner than lower underfrequency trip settings.

[17] Attachment B to proposed regional Reliability Standard PRC–006–NPCC–1 establishes the compensatory load shedding criteria for the portion of NPCC located in the United States for existing non-nuclear units.

[18] *Compare* proposed regional Reliability Standard PRC–006–NPCC–1, Requirement R16, *with* proposed regional Reliability Standard PRC–006–NPCC–1, Requirement R19.

[19] NERC Petition at 11.

[20] *See, e.g.,* Requirements R11, R14, and R23 of proposed regional Reliability Standard PRC–006–NPCC–1.

[21] *North American Electric Reliability Corp.,* 135 FERC ¶ 61,166 (2011).

[22] NERC August 3, 2012 Errata at 29 of PDF electronic file.

[23] 5 CFR 1320.11.

requirements of this rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

21. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

22. This Notice of Proposed Rulemaking proposes to approve regional Reliability Standard PRC–006–NPCC–1. This is the first time NERC has requested Commission approval of the proposed regional Reliability Standard. NERC states in its petition that UFLS requirements have been in place at a continent-wide level and within NPCC for many years prior to implementation of the Commission-approved Reliability Standards in 2007. Because the UFLS requirements have been in place prior to the development of PRC–006–NPCC–1, the proposed regional Reliability Standard is largely associated with requirements that applicable entities are already following.[24] The proposed regional Reliability Standard PRC–006–NPCC–1 is designed to work in conjunction with and augment the NERC continent-wide UFLS Reliability Standard PRC–006–1 by mitigating the consequences of underfrequency events, while accommodating differences in system transmission and distribution topology among NPCC planning coordinators due to historical design criteria, makeup of load demands, and generation resources. The proposed regional Reliability Standard is only applicable to generator owners, planning coordinators, distribution providers, and transmission owners in the NPCC Region. The reporting requirements in proposed regional Reliability Standard PRC–006–NPCC–1 only pertain to entities within the NPCC Region.

23. *Public Reporting Burden:* Our estimate below regarding the number of respondents is based on the NERC Compliance Registry as of July 24, 2012. According to the NERC Compliance Registry, there are 2 planning coordinators and 135 generator owners within the United States portion of the NPCC Region. The Commission bases individual burden estimates on the time needed for planning coordinators to incrementally gather data, run studies, and analyze study results to design or update the UFLS programs that are required in the regional Reliability Standard in addition to the requirements of the NERC Reliability Standard PRC–006–1.[25] Additionally, generator owners must set each underfrequency trip relay below the appropriate generator underfrequency trip protection settings threshold curve in PRC–006–NPCC–1, Figure 1 and provide the generator underfrequency trip setting and time delay to its planning coordinator within 45 days of the planning coordinator's request. These burden estimates are consistent with estimates for similar tasks in other Commission-approved Reliability Standards. The following estimates relate to the requirements for this Notice of Proposed Rulemaking in Docket No. RM12–12–000 (For Planning Coordinators) and are in addition to the burden for the continent-wide Reliability Standard PRC–006–1, which was approved in Order No. 763 (approved by OMB Control No. 1902–0244 on 7/9/2012).

PRC–006–NPCC–1 (FERC–725L) (automatic underfrequency load shedding)[26]	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
PCs*: Design and document Automatic UFLS Program	2	1	8	16
PCs: Update and Maintain UFLS Program Database			16	32
GOs*: Provide Documentation and Data to the Planning Coordinator	135	1	16	2160
GOs: Record Retention			4	540
Total				2748

* PC=planning coordinator; GO=generator owner.

Total Annual Hours for Collection: (Compliance/Documentation) = 2,748 hours.

Total Reporting Cost for planning coordinators: = 48 hours @ $120/hour = $5,760.

Total Reporting Cost for generator owners: = 2,160 hours @ $120/hour = $259,200.

Total Record Retention Cost for generator owners: 540 hours @ $28/hour = $15,120.

Total Annual Cost (Reporting + Record Retention)[27]: = $5760 + $259,200 +$15,120 = $280,080.

Title: Mandatory Reliability Standards for the NPCC Region.

Action: Proposed Collection FERC–725L.

OMB Control No.: To be determined.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: On Occasion.

Necessity of the Information: This proposed rule proposes to approve the regional Reliability Standard pertaining to automatic underfrequency load shedding. The proposed regional Reliability Standard helps ensure the

[24] *See* 5 CFR 1320.3(b)(2) (''The time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (e.g., in compiling and maintaining business records) will be excluded from the 'burden' if the agency demonstrates that the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary.'').

[25] The burden estimates for Reliability Standard PRC–006–1 are included in Order No. 763 and are not repeated here.

[26] Proposed regional Reliability Standard PRC–006–NPCC–1 applies to planning coordinators, transmission owners, distribution providers and generator owners. However, the burden associated with the transmission owners and distribution providers is not included within this table because the Commission accounted for it under Commission-approved Reliability Standards PRC–006–1, PRC–007–0 and PRC–009–0.

[27] The Commission bases the hourly reporting cost on the cost of an engineer to implement the requirements of the rule. The record retention cost comes from Commission staff research on record retention requirements.

development of an effective UFLS program that preserves the security and integrity of the Bulk-Power System during declining system frequency events in coordination with the continent-wide Reliability Standard PRC–006–1 requirements.

Internal Review: The Commission reviewed the proposed regional Reliability Standard and made a determination that its action is necessary to implement section 215 of the FPA. These requirements, if accepted, should conform to the Commission's expectation for UFLS programs as well as procedures within the NPCC Region.

24. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

25. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638, fax: (202) 395–7285]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov*. Comments submitted to OMB should include FERC–725L and Docket Number RM12–12–000.

IV. Environmental Analysis

26. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[28] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[29] The actions proposed here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Certification

27. The Regulatory Flexibility Act of 1980 (RFA)[30] generally requires a description and analysis of any rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[31] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[32]

28. Proposed regional Reliability Standard PRC–006–NPCC–1 proposes to achieve a coordinated, comprehensive UFLS region-wide consistent program within the NPCC Region to achieve and facilitate the broader program characteristics contained in the requirements of the continent-wide Reliability Standard PRC–006–1.[33] It will be applicable to planning coordinators, generator owners, transmission owners and distribution providers. Comparison of the NERC Compliance Registry with data submitted to the Energy Information Administration on Form EIA–861 indicates that 5 small entities are registered as generator owners in the United States portion of the NPCC Region.[34] The Commission estimates that the small generator owners to whom the proposed regional Reliability Standard applies will incur compliance and record keeping costs of $10,160 ($2,032 per generator owner). Accordingly, proposed regional Reliability Standard PRC–006–NPCC–1 should not impose a significant operating cost increase or decrease on the affected small entities.

29. Further, NERC explains that the cost for smaller entities to implement regional Reliability Standard PRC–006–NPCC–1 was considered during the development process. NERC states that proposed regional Reliability Standard PRC–006–NPCC–1 provides an opportunity for smaller entities to aggregate their load with other such entities in the same electrical island. This allows each smaller entity's respective planning coordinator to achieve the desired aggregate outcome within that island according to program characteristics.[35]

30. Based on this understanding, the Commission certifies that the regional Reliability Standard will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Comment Procedures

31. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 26, 2012. Comments must refer to Docket No. RM12–12–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

32. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

33. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

34. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

35. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal

[28] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[29] 18 CFR 380.4(a)(2)(ii).

[30] 5 U.S.C. 601–612.

[31] 13 CFR 121.101.

[32] 13 CFR 121.201, Sector 22, Utilities & n.1.

[33] NERC Petition at 29–30

[34] The two planning coordinators in the United States portion of the NPCC Region are not considered small entities.

[35] NERC Petition at 25.

business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

36. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

37. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23647 Filed 9–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. FDA–2012–N–0447]

Antimicrobial Animal Drug Sales and Distribution Reporting; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period for the advance notice of proposed rulemaking that appeared in the **Federal Register** of July 27, 2012. In the advance notice of proposed rulemaking, FDA requested comments regarding potential changes to its regulations relating to records and reports for approved antimicrobial new animal drugs. The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: The comment period for the advance notice of proposed rulemaking that published July 27, 2012 (77 FR 44177) is extended. Submit written or electronic comments by November 26, 2012.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2012–N–0447, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *Fax:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2012–N–0447 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Neal Bataller, Center for Veterinary Medicine (HFV–210), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9062, email: *neal.bataller@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 27, 2012 (77 FR 44177), FDA published an advance notice of proposed rulemaking with a 60-day comment period to request comments regarding potential changes to its regulations relating to records and reports for approved new animal drugs. FDA is considering revisions to this regulation to incorporate the requirements of section 105 of the Animal Drug User Fee Amendments of 2008 (ADUFA 105). The Agency is also seeking public comment on how best to compile and present the summary information as directed by ADUFA 105, and on alternative methods available to the Agency for obtaining additional data and information about the extent of antimicrobial drug use in food-producing animals.

The Agency has received requests for a 60-day extension of the comment period for the advance notice of proposed rulemaking. The requests conveyed concern that the current 60-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the advance notice of proposed rulemaking.

FDA has considered the requests and is extending the comment period for the advance notice of proposed rulemaking for 60 days, until November 26, 2012. The Agency believes that a 60-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

II. Request for Comments

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov.* It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: September 20, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–23740 Filed 9–21–12; 4:15 pm]

BILLING CODE 4160–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0154; FRL–9732–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; The Washington County 2002 Base Year Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory portion of the State of Maryland State Implementation Plan (SIP) revision submitted by the State of Maryland, through the Maryland Department of the

Environment (MDE), on June 6, 2008 for Washington County, Maryland. The emissions inventory is part of Maryland's June 6, 2008 SIP revision that was submitted to meet nonattainment requirements related to the Washington County nonattainment area (hereafter referred to as Washington County Area or Area) for Maryland's 1997 $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) SIP. EPA is proposing to approve the 2002 base year $PM_{2.5}$ emissions inventory for Washington County submitted by MDE in accordance with the requirements of the Clean Air Act (CAA).

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

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2010–0154 by one of the following methods:

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

B. *Email: mastro.donna@epa.gov.*

C. *Mail:* EPA–R03–OAR–2010–0154, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2010–0154. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of SIP Revision
III. Proposed Action
IV. Statutory and Executive Order Reviews

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On July 18, 1997 (62 FR 38652), EPA promulgated the 1997 $PM_{2.5}$ NAAQS, including an annual standard of 15.0 micrograms per cubic meter (μg/m^3) based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour (or daily) standard of 65 μg/m^3 based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to $PM_{2.5}$.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. In 1999, EPA and state air-quality agencies initiated the monitoring process for the 1997 $PM_{2.5}$ NAAQS and, by January 2001, established a complete set of air-quality data. On January 5, 2005, EPA published initial air-quality designations for the 1997 $PM_{2.5}$ NAAQS (70 FR 944), which became effective on April 5, 2005, based on air-quality monitoring data for calendar years 2001–03.

On April 14, 2005, EPA promulgated a supplemental rule amending the agency's initial designations (70 FR 19844), with the same effective date (April 5, 2005) as that which was promulgated at 70 FR 944. As a result of this supplemental rule, $PM_{2.5}$ nonattainment designations are in effect for 39 areas, comprising 208 counties within 20 states (and the District of Columbia) nationwide, with a combined population of approximately 88 million. The Washington County Area which is the subject of this rulemaking was included in the list of areas not attaining the 1997 $PM_{2.5}$ NAAQS.

On June 6, 2008, the State of Maryland submitted a revision to the Maryland SIP (#08–05) to meet nonattainment requirements for the Washington County Area. On November 20, 2009 (74 FR 60199), EPA determined that Maryland had attained the 1997 $PM_{2.5}$ NAAQS in the Washington County Area. That determination was based upon quality assured, quality controlled and certified ambient air monitoring data that showed the Area had monitored attainment of the 1997 $PM_{2.5}$ NAAQS for the 2004–2006 monitoring period and that continued to show attainment of the 1997 $PM_{2.5}$ NAAQS based on the 2005–2007 data. The November 20, 2009 determination suspended the requirements for Maryland to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIP revisions related to attainment of the standard for so long as the nonattainment area continues to meet the 1997 $PM_{2.5}$ NAAQS. On February 29, 2012, MDE withdrew portions of the June 6, 2008 Washington County, Maryland 1997 $PM_{2.5}$ SIP revisions including the attainment plan, analysis of reasonably available control measures, attainment demonstration, contingency plans and mobile source budgets. To meet the requirements of CAA section 172(c)(3), MDE did not request the withdrawal of the 2002 base year emission inventory portion of the June 6, 2008 1997 $PM_{2.5}$ SIP revision. Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions.

II. Summary of SIP Revision

The 2002 base year emission inventory submitted by MDE on June 6, 2008 for Washington County, Maryland includes emissions estimates that cover the general source categories of stationary point sources, stationary nonpoint sources, nonroad mobile sources and onroad mobile sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOCs), $PM_{2.5}$, coarse particles (PM_{10}), ammonia (NH_3), and sulfur dioxide (SO_2). EPA has reviewed the results, procedures and methodologies for the 2002 base year emissions inventory submitted by MDE for Washington County, Maryland. The year 2002 was selected by MDE as the base year for the emissions inventory per 40 CFR 51.1008(b). A discussion of the emissions inventory development as well as the emissions inventory can be found in the June 6, 2008 SIP submittal.

The CAA section 172(c)(3) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule (CERR) for all source categories (*i.e.,* point, area, nonroad mobile and on-road mobile). The 2002 emissions inventory was based on data developed by MDE. The data were developed according to current EPA emissions inventory guidance, ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations,'' August 2005. EPA agrees that the process used to develop this emissions inventory is adequate to meet the requirements of CAA section 172(c)(3), the implementing regulations, and EPA guidance for emission inventories. More information regarding the review of the base year inventory can be found in the technical support document (TSD) that is located in this docket.

III. Proposed Action

EPA is proposing to approve the 2002 base year emissions inventory portion of the SIP revision submitted by Maryland through MDE on June 6, 2008 for Washington County, Maryland. We have made the determination that this action is consistent with section 110 of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

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

In addition, this proposed rule, pertaining to the $PM_{2.5}$ 2002 base year emissions inventory portion of the Washington County, Maryland June 6, 2008 SIP submittal, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: August 30, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–23698 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Dockets No. FWS–R9–MB–2012–0028 and FWS–R9–MB–2012–0038; FF09M21200–123–FXMB1231099BPP0L2]

RINs 1018–AY61, 1018–AY66

Migratory Bird Hunting; Application for Approval of Copper-Clad Iron Shot and Fluoropolymer Shot Coatings as Nontoxic for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft environmental assessments.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to approve copper-clad iron shot and fluoropolymer coatings for hunting waterfowl and coots. We published a notice of application for nontoxic shot approval for copper-clad iron shot in the **Federal Register** on June 20, 2012 (77 FR 36980), and one for the fluoropolymer shot coatings on July 6, 2012 (77 FR 39983). Having completed our review of the application materials for both, we have concluded that neither the shot nor the coatings are likely to adversely affect fish, wildlife, or their habitats.

DATES: Electronic comments on this proposal via *http://www.regulations.gov* must be submitted by 11:59 p.m. Eastern time on October 26, 2012. Comments submitted by mail must be postmarked no later than October 26, 2012.

ADDRESSES: *Document Availability.* You may view the application and our draft environmental assessments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for Docket No. FWS–R9–MB–2012–0028 for

copper-clad iron shot, or Docket No. FWS–R9–MB–2012–0038 for fluoropolymer shot coatings.

• Request a copy by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: You may submit comments by either one of the following two methods:

• *Federal eRulemaking portal: http://www.regulations.gov*. Follow the instructions for submitting comments on either or both of the dockets.

• *U.S. mail or hand delivery:* Public Comments Processing, Attention: FWS–R9–MB–2011–0060; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, MS 2042–PDM; Arlington, VA 22203–1610.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information that you provide.

FOR FURTHER INFORMATION CONTACT: Dr. George Allen, at 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union 1978). These treaties protect most migratory bird species from take, except as permitted under the Act, which authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. We prohibit the use of shot types other than those listed in the Code of Federal Regulations (CFR) at 50 CFR 20.21(j) for hunting waterfowl and coots and any species that make up aggregate bag limits.

Deposition of toxic shot and release of toxic shot components in waterfowl hunting locations are potentially harmful to many organisms. Research has shown that ingested spent lead shot causes significant mortality in migratory birds. Since the mid-1970s, we have sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved nontoxic shot types and added them to the migratory bird hunting regulations in 50 CFR 20.21(j). We continue to review all shot types submitted for approval as nontoxic.

We addressed lead poisoning in waterfowl in an environmental impact statement (EIS) in 1976, and again in a 1986 supplemental EIS. The 1986 document provided the scientific justification for a ban on the use of lead shot and the subsequent approval of steel shot for hunting waterfowl and coots that began that year, with a complete ban of lead for waterfowl and coot hunting in 1991. We have continued to consider other potential candidates for approval as nontoxic shot. We are obligated to review applications for approval of alternative shot types as nontoxic for hunting waterfowl and coots.

Many hunters believe that some nontoxic shot types compare poorly to lead and may damage some shotgun barrels. A small and decreasing percentage of hunters have not complied with nontoxic shot regulations. Allowing use of additional nontoxic shot types may encourage greater hunter compliance and participation with nontoxic shot requirements and discourage the use of lead shot. The use of nontoxic shot for waterfowl hunting increased after the ban on lead shot (Anderson et al. 2000), but we believe that compliance would continue to increase with the availability and approval of other nontoxic shot types. Increased use of nontoxic shot will enhance protection of migratory waterfowl and their habitats. More important is that the U.S. Fish and Wildlife Service is obligated to consider all complete nontoxic shot submissions.

Applications

Environ-Metal, Inc., of Sweet Home, Oregon, seeks approval of copper-clad iron shot as nontoxic. We evaluated the impact of approval of this shot type in a draft environmental assessment, which we are making available for public review (see **ADDRESSES**). The iron core of the shot has long been approved, so our concern with this shot is the copper cladding on the iron core. The data from Environ-Metal indicate that the copper will not be toxic when ingested by waterfowl, and should not pose a significant danger to migratory birds, other wildlife, or their habitats. We conclude that the shot should not be of concern if deposited in the environment or if ingested by waterfowl or predators.

Spectra Shot, LLC, of Lafayette, Louisiana, seeks approval of fluoropolymer coatings as evaluated in a draft environmental assessment, which we are making available for public review (see **ADDRESSES**). Information from Spectra Shot indicates that the fluoropolymer coatings will be nontoxic when ingested by waterfowl, and should not pose a significant danger to migratory birds, other wildlife, or their habitats. We conclude that the information raises no particular concerns about deposition in the environment or about ingestion by waterfowl or predators.

We have reviewed the shot and the shot coatings under the criteria in Tier 1 of the revised nontoxic shot approval procedures at 50 CFR 20.134 for permanent approval of shot and coatings as nontoxic for hunting waterfowl and coots. We propose to amend 50 CFR 20.21(j) to add the shot and the coatings to the list of those approved for waterfowl and coot hunting. Details on the evaluations of the shot and the coatings can be found in the draft environmental assessments.

Copper-Clad Iron Shot

Copper-clad iron shot is a composite in which copper is thermo-mechanically bonded to centerless-ground steel rod, then mechanically worked to final wire and shot configurations. Copper-clad iron shot may be produced with a variety of different proportions of copper and iron, ranging from 16 to 44.41% by weight copper, with a density of approximately 8.3 grams per cubic centimeter. Environ-Metal asserts that ''there is little variability in composition to be expected'' in production of the shot. Environ-Metal expects to produce about 50,000 pounds of copper-clad iron shot per year.

Fluoropolymer Coatings

Spectra Shot is cut wire shotgun shot (steel shot) with a proprietary shot coating. Four different colors of the coated shot will be marketed as Spectra Shot™ Blue, Spectra Shot™ Green, Spectra Shot™ Orange, and Spectra Shot™ Yellow. The thickness of the coating will be 3 to 10 microns, with a corresponding weight per shot as follows: Spectra Shot™ Blue—0.209 milligram per shot; Spectra Shot™ Green—0.732 milligram per shot; Spectra Shot™ Orange—0.942 milligram per shot; and Spectra Shot™ Yellow—1.779 milligrams per shot. Spectra Shot expects annual use of the coated shot in hunting migratory birds in the United States to be 98,000 pounds.

Polyamide-imide copolymer, polytetrafluoroethylene, amorphous fumed silica, and methylphenyl polysiloxane are common to all Spectra Shot™ colors and make up the bulk of the coating. The pigments vary between coatings, and comprise 13.8% to 20.5% by weight of the dry film.

Effects of the Approval on Migratory Waterfowl

Allowing use of additional nontoxic shot types may encourage greater hunter compliance and participation with nontoxic shot requirements and discourage the use of lead shot. Furnishing additional approved nontoxic shot types and nontoxic coatings likely would further reduce the use of lead shot. Thus, approving additional nontoxic shot types and coatings would likely result in a minor positive long-term impact on waterfowl and wetland habitats.

Effects on Endangered and Threatened Species

The impact on endangered and threatened species of approval of copper-clad iron shot and fluoropolymer coatings alloys would be very small, but positive. Copper-clad iron shot and fluoropolymer coatings are highly unlikely to adversely affect animals that consume the shot or habitats in which the shot might be used. We see no potential effects on threatened or endangered species due to approval of the shot type or the coatings.

We obtained a biological opinion pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), prior to establishing the seasonal hunting regulations. The hunting regulations promulgated as a result of this consultation remove and alleviate chances of conflict between migratory bird hunting and endangered and threatened species.

Effects on Ecosystems

Previously approved shot types have been shown in test results to be nontoxic to the migratory bird resource, and we believe that they cause no adverse impact on ecosystems. There is concern, however, about noncompliance with the prohibition on lead shot and potential ecosystem effects. The use of lead shot has a negative impact on wetland ecosystems due to the erosion of shot, causing sediment/soil and water contamination and the direct ingestion of shot by aquatic and predatory animals. Though we believe noncompliance is of concern, approval of the shot type and the coatings would have little impact on the resource, unless it has the small positive impact of reducing the rate of noncompliance.

Cumulative Impacts

We foresee no negative cumulative impacts if we approve the shot type and the coatings for waterfowl hunting. Their approval could help to further reduce the negative impacts of the use of lead shot for hunting waterfowl and coots. We believe the impacts of the approvals for waterfowl hunting in the United States should be positive.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions).

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action would not have a significant economic impact on a substantial number of small entities. The rule would allow small entities to improve their economic viability. However, the rule would not have a significant economic impact because it would affect only two companies. We certify that because this rule would not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under the SBREFA (5 U.S.C. 804(2)).

a. This rule would not have an annual effect on the economy of $100 million or more.

b. This rule would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, Tribal, or local government agencies; or geographic regions.

c. This rule would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following:

a. This rule would not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. Actions under the regulation would not affect small government activities in any significant way.

b. This rule would not produce a Federal mandate of $100 million or greater in any year. It would not be a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with E.O. 12630, this rule does not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a federalism summary impact assessment under E.O. 13132. It would not interfere with the ability of States to manage themselves or their funds.

Civil Justice Reform

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

This proposed rule does not contain any new collections of information that require approval by the Office of

Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved our collection of information associated with applications for approval of nontoxic shot (50 CFR 20.134) and assigned OMB Control Number 1018–0067, which expires May 31, 2015.

National Environmental Policy Act

Our draft environmental assessment is part of the administrative record for this proposed regulations change. In accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.* and Part 516 of the U.S. Department of the Interior Manual (516 DM), approval of copper-clad iron shot and fluoropolymer coatings would not have a significant effect on the quality of the human environment, nor would it involve unresolved conflicts concerning alternative uses of available resources. Therefore, preparation of an environmental impact statement (EIS) is not required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated potential effects on federally recognized Indian Tribes and have determined that there are no potential effects. This rule would not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

Energy Supply, Distribution, or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 addressing regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule change would not be a significant regulatory action under E.O. 12866, nor would it significantly affect energy supplies, distribution, or use. This action would not be a significant energy action, and no Statement of Energy Effects is required.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). We have concluded that the regulation change would not affect listed species.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, please send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, we propose to amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

2. Amend § 20.21(j)(1) by revising the table and footnotes to read as follows.

§ 20.21 What hunting methods are illegal?

* * * * *

(j)(1) * * *

Approved shot type *	Percent composition by weight	Field testing device **
Bismuth-tin	97 bismuth, and 3 tin	Hot Shot® ***.
Iron (steel)	iron and carbon	Magnet or Hot Shot®.
Iron-tungsten	any proportion of tungsten, and ≥1 iron	Magnet or Hot Shot®.
Iron-tungsten-nickel	≥1 iron, any proportion of tungsten, and up to 40 nickel	Magnet or Hot Shot®.
Copper-clad iron	84 to 56.59 iron core, with copper cladding up to 44.1 of the shot mass.	Magnet or Hot Shot [7].
Tungsten-bronze	51.1 tungsten, 44.4 copper, 3.9 tin, and 0.6 iron, or 60 tungsten, 35.1 copper, 3.9 tin, and 1 iron.	Rare Earth Magnet.
Tungsten-iron-copper-nickel	40–76 tungsten, 10–37 iron, 9–16 copper, and 5–7 nickel	Hot Shot® or Rare Earth Magnet.
Tungsten-matrix	95.9 tungsten, 4.1 polymer	Hot Shot®.
Tungsten-polymer	95.5 tungsten, 4.5 Nylon 6 or 11	Hot Shot®.
Tungsten-tin-iron	any proportions of tungsten and tin, and ≥1 iron	Magnet or Hot Shot®.
Tungsten-tin-bismuth	any proportions of tungsten, tin, and bismuth	Rare Earth Magnet.
Tungsten-tin-iron-nickel	65 tungsten, 21.8 tin, 10.4 iron, and 2.8 nickel	Magnet.
Tungsten-iron-polymer	41.5–95.2 tungsten, 1.5–52.0 iron, and 3.5–8.0 fluoropolymer.	Rare Earth Magnet or Hot Shot®.

* Coatings of copper, nickel, tin, zinc, zinc chloride, zinc chrome, and fluoropolymers on approved nontoxic shot types also are approved.
** The information in the ''Field Testing Device'' column is strictly informational, not regulatory.
*** The ''HOT*SHOT'' field testing device is from Stream Systems of Concord, CA.

* * * * *

Dated: September 12, 2012.

Michael J. Bean,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–23657 Filed 9–25–12; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 77, No. 187
Wednesday, September 26, 2012

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

DEPARTMENT OF AGRICULTURE

Forest Service

Andrew Pickens Ranger District; South Carolina; AP Loblolly Pine Removal and Restoration Project

AGENCY: Forest Service, USDA.

ACTION: Notice; correction

SUMMARY: On March 8, 2010, the Forest Service published a NOT to prepare and EIS to disclose the effects of removing off-site loblolly pine plantations and restoring native vegetation on portions of the Andrew Pickens Ranger District (the District). This NOI is being corrected to reflect a delay of more than a year in filing the draft EIS. In addition, corrections are being made to the number of acres proposed for treatment and the miles of system and temporary roads based on better mapping and additional field survey work. Finally, the contact person for additional information has changed.

FOR FURTHER INFORMATION CONTACT: Victor Wyant, 864–638–9568.

Correction

1. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10457, in the third column, correct the **DATES** caption to read:

DATES: The draft environmental impact statement is expected by October 2012 and the final environmental impact statement is expected by December 2012.

2. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10458, in the first column, correct the **FOR FURTHER INFORMATION CONTACT** caption to read:

FOR FURTHER INFORMATION CONTACT: Victor Wyant (*vwyant@fs.fed.us*), 864–638–9568.

3. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10458, in the first column, correct the ''Purpose and Need for Action'', first sentence to read:

The District has approximately 5,542 acres of planted loblolly pine stands.

4. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10458, in the third column, correct the ''Proposed Action'', heading to read:

Regeneration Harvest, With Reserves (Cut-and-Remove—3,642 Acres)

5. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10458, in the third column, correct the ''Proposed Action'', heading to read:

Regeneration Harvest, With Reserves (Cut-and-Leave—1,900 Acres)

6. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10459, in the first column, correct the ''Additional Treatments'', heading to read:

Site Preparation and Release (3,421 Acres) for Reforestation by Planting

7. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10459, in the second column, correct the ''Reforestation'', heading to read:

Reforestation by Planting (3,061 Acres)

8. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10459, in the third column, correct the ''Connected Actions'', heading, second paragraph, fourth sentence to read:

Total specified system road construction is estimated at 6.5 mile but may vary once actual design is completed.

9. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10459, in the third column, correct the ''Connected Actions'', heading, third paragraph, first sentence to read:

Road Reconstruction and maintenance would be needed on approximately 60.0 miles of roads.

10. In the **Federal Register** of March 8, 2010, in FR/Vol. 75, No. 44, on page 10459, in the third column, correct the ''Connected Actions'', heading, fourth paragraph, third sentence to read:

Approximately 21.7 miles of temporary roads are needed for access.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The District has approximately 5,542 acres of planted loblolly pine stands. Most of the project area was converted to loblolly pine plantations by clear-cutting more diverse native stands and planting them to loblolly pine (Pinus taeda) after intensive site preparation treatments. Species composition is mostly pure loblolly pine with few native hardwoods or pines growing in the overstory. Hardwood sprouts and saplings are common in the understory.

With a lack of disturbance, the understory is comprised mostly of shade tolerant tree species such as red maple, black gum, dogwood, and sourwood. Stand density is high, typically ranging from 120 to 160 square feet of basal area per acre. Loblolly pine in the overstory of some stands is sparse due to southern pine beetle (SPB) mortality or from poor planting success. SPB-related mortality was widespread across the District in 2002 and 2003, with variable impacts to stands in the project area.

Early successional habitat is one of the most limited types of available plant and wildlife habitats on the Andrew Pickens District. The endangered plant, smooth coneflower has been limited in its distribution as a result of lack of disturbance and growth of shade tolerant species. The species is known to occur adjacent to several loblolly stands. Plant surveys have identified current locations of the plant and potential habitat areas have also been identified. There is an opportunity to promote the expansion and establishment of this species in identified areas. The Sumter National Forest Protected, Endangered, and Threatened Species (PETS) list includes several other species that require early successional habitat in order to thrive. These species generally have been restricted to along roadsides and utility right-of-ways (ROWs) because of the disturbance frequency on these sites.

The AP Loblolly Pine Removal and Restoration Project is located on four management prescription areas:

Management area	
4F	Scenic Areas.
7.E.2	Dispersed Recreation Areas with Vegetation Management.
8.A.1	Mix of Successional Forest Habitats.
11	Riparian Corridors.

The purpose and need for this project is to restore the current landscape condition within the project area to native forest vegetation. This change in condition would improve ecosystem

health; increasing species diversity of native vegetation would provide greater variety of habitat, increasing viability of plant and animal species. Diverse native forests are more resilient to natural disturbances than a plantation comprised primarily of one non-native species.

The off-site loblolly pine stands would be naturally or artificially regenerated to a native species composition, mostly shortleaf pine, pitch pine, Table mountain pine, oaks, and hickories. A blight resistant American chestnut (once native to this area) would also be planted depending on suitable site conditions and seedling availability. These species are ecologically suited to the proposed treatment stands, provide mast for wildlife, and provide socio-economic benefits. All of these species, most notably the native pine species, have been declining in abundance on the District, primarily due to lack of disturbance. Felling newly-regenerated loblolly pine trees in recently harvested stands that were part of other project Decisions would help facilitate the development of native species in those stands.

Woodlands treatments would provide additional habitat diversity. Woodlands are forests with relatively low tree densities of 25–60% forest cover with understories that are dominated by native grasses and forbs. Management that promotes woodlands would serve a multitude of resources. Woodlands provide habitat for a variety of disturbance-dependent, early successional game and nongame wildlife species in all stages of their lifecycles. Populations of early successional bird species, such as northern bobwhite quail, ruffed grouse, field sparrow, and golden-winged warbler, have been declining on the Sumter National Forest because of a lack of suitable habitat. Woodlands also provide open stand conditions with ample sunlight and disturbance conditions conducive to certain plants including the federally endangered smooth coneflower.

Proposed Action

The District has approximately 5,542 acres of planted loblolly pine stands. The action proposed by the Forest Service to meet the Purpose and Need consists of regeneration harvest with reserves (cut-and-remove) and regeneration harvest with reserves (cut-and-leave) treatments and the establishment/maintenance of woodlands. Prescribed burning, manual, mechanical, and herbicide treatments would be used to reduce woody competition in regenerated stands to help establish/maintain native plant communities including smooth coneflower. Prescribed burning is covered under existing project Decisions.

Regeneration Harvest With Reserves (Cut-and-Remove — 3,642 Acres)

Timber harvest would occur in stands where operable volumes now exist. This would include establishing log landings and loading areas, skid trails, and road access in the form of temporary roads, reconstructed roads, or newly constructed forest system roads. In addition to loblolly pine, harvest would also include Virginia pine, white pine, red maple, yellow-poplar and other hardwoods to reduce competition. Oaks, hickories, shortleaf pine, Table mountain pine, pitch pine, would be retained where possible unless removal is necessary for safety or for equipment operability reasons. Selected soft mast producers and some flowering tree species would also be retained for their wildlife food or ecological benefit.

Regeneration Harvest With Reserves (Cut-and-Leave—1,900 Acres)

Loblolly pine trees would be cut and left on-site where trees are too small or access too difficult for a viable commercial sale. Cut and leave treatments would also occur in stands where harvest has already occurred where loblolly pine regeneration has come in. Cutting methods would include manual methods that use hand tools and chainsaws. In addition to loblolly pine, cutting would also include Virginia pine, white pine, red maple, yellow-poplar and other hardwoods to reduce competition. Oaks, hickories, shortleaf pine, Table mountain pine, and pitch pine would be retained. Selected soft mast producers and some flowering tree species would also be retained for their wildlife food or ecological benefit.

Additional Treatments

Site Preparation for Reforestation by Planting (Artificial Regeneration) and Release (3,421 Acres)

In stands where reforestation by planting is proposed, herbicide would be used to prepare the site for planting. Any remaining Virginia pine, white pine, red maple, yellow-poplar and other hardwoods would be targeted to reduce competition to the planted species and to any remaining oaks, hickories, shortleaf pine, table mountain pine, and pitch pine. Selected soft mast producers and some flowering tree species be retained for their wildlife food or ecological benefit.

Site preparation and release treatments would include stem injection and foliar spray using the herbicides imazapyr and triclopyr that would be used in identified regeneration units. Stem injections would be applied with hatchets and squirt bottles, or similar application devices, using a mixture of 64 oz water, 64 oz Garlon 3A or equivalent (triclopyr amine) and 6 oz Arsenal AC or equivalent (imazapyr). Stem injection would be applied to target vegetation too large to treat with a foliar spray. This application is made between the first of July and the end of September.

Directed foliar spray would be applied using backpack sprayers. The application is a low volume direct spray applied to targeted vegetation by speckling the leaf surface. This application is made between the first of July and the end of September. Per gallon of mix water, the herbicide mixture for this application is: 0.5 ounce Arsenal AC or equivalent (imazapyr), 2 ounces of Garlon 4 or equivalent (triclopyr ester), V2 ounce surfactant, and spray pattern indicator.

An herbicide crop tree release treatment would be done 3 to 5 years after trees are planted. The treatment would reduce competition to oaks, hickories, shortleaf pine, Table mountain pine, pitch pine. and American chestnut (if planted) so that they could become the dominant species in the treated stands over the long term. Selected soft mast producers and some flowering tree species would be retained for their wildlife food or ecological benefit.

Reforestation by Planting (Artificial Regeneration)—3,061 Acres

In stands where reforestation by planting is proposed, native shortleaf pine would be planted on a majority of the sites on a 12x12 foot spacing to augment natural regeneration of native pines and hardwoods. Where suitable habitat exists and if seedlings are available, Table mountain pine and pitch pine would be planted. Also depending on site conditions and seedling availability, a blight resistant strain of American chestnut would be planted to re-establish this species.

Plantings would take advantage of growing space created by timber harvest and site preparation. Areas of the stand would not be planted where sufficient stocking exists from overstory trees that were not harvested. This would result in a two-aged structure in some stands.

Woodland Treatments (202 Acres)

The woodland treatments would cut all loblolly pine. Virginia pine, white pine, maples, yellow-poplar, and other species would be cut as needed to reduce competition. All pitch pine and Table mountain pine would be retained unless removal is necessary for safety or for equipment operability reasons. The treatment would include thinning oaks, hickories, and shortleaf pine to a basal area (BA) of 30–40 ft\2\/acre. All oak, hickory, and shortleaf pine would be left where (BA) is currently less than 30–40 ft\2\/acre. Three of these stands would be managed to benefit smooth coneflower.

After initial treatments are completed, the areas would be prescribe-burned on a periodic basis, every 1–5 years (prescribed burning is covered under existing NEPA Decisions). Herbicide, manual and mechanical methods would be applied to sprouts/seedlings within 1–2 years after the initial post-harvest prescribed burn to reduce competition. These methods would be applied up to two more times after the initial treatment if needed to reduce competition. For woodlands management, the type of herbicide, method of application, and timing of application would be the same as that proposed for site preparation and release treatments.

Manual and mechanical methods including but not limited to hand tools (chainsaws, brush saws), and/or heavy equipment (tractor with mower, gyro-track) would be used to control sprouts and seedlings of tree species to maintain the woodland condition. Mechanical treatments would grind up or masticate undesirable understory vegetation.

Connected Actions

The following activities would be conducted in connection with vegetation management activities.

• *System Road Construction:* Twelve (12) system roads would be built providing access to 20 loblolly timber stands. These new roads are needed to provide access during timber harvest and to provide for long term resource management. These roads are designed by Forest Service engineers to specific standards that include designing drainage structures such as culvert installations, inside slope ditching, road crown specifications, widened turn-around, gates, and signage. Total specified system road construction is estimated at 6.5 miles but would vary once actual design is completed. Information on roads is contained in the road analysis.

• *Road Reconstruction and Maintenance:* System road reconstruction and maintenance would be needed on approximately 60 miles of roads. Reconstruction work would consist of but not be limited to graveling road surfaces, replacing culverts—including replacements for aquatic organism passage, ditch cleaning, removing brush and trees along road rights-of-way, installing, repairing or replacing gates and correcting road safety hazards. Road maintenance would consist of spot gravel replacement, blading, cleaning culverts, brushing and mowing.

• *Temporary Roads:* Log landings that have no access to existing roads would be accessed by a temporary road that connects to the forest transportation system. Temporary roads are low-standard roads generally under 10 percent grade and road widths less than 14 feet. Approximately 21.7 miles of temporary roads are needed for access. Most temporary roads would be in the form of utilizing existing undesignated ''woods'' roads that already exist in the forest, that are in suitable locations, and for the most part have stabilized cut and fill slopes that would not be disturbed. Upon completion of treatments, temporary roads would be closed, obliterated and adequate erosion and storm water control measures completed and replanted with vegetation.

• *Skid Trails:* Skid trails would be used to skid logs to log landings. They would be closed after use with adequate storm water and erosion control measures.

• *Log Landings:* Log landings are locations where logs are piled and then loaded onto trucks. Existing landings sites would be used as practicable to limit soil effects (compaction). They would be closed after use with adequate storm water and erosion control measures.

Possible Alternatives

The Proposed Action and another action alternative are proposed for achieving the stated purpose and need, as well as a No-Action Alternative. The other action alternatives was developed to respond to issues raised by the public during scoping.

Responsible Official

The Andrews Pickens District Ranger, Sumter national Forest is the responsible official for this project.

Nature of Decision To Be Made

The District Ranger will decide whether or not to implement the action as proposed or an alternative way to achieve the desired outcome.

Scoping Process

The scoping process for this project occurred when the original NOI was published in 2010. Issues identified during the scoping period were used to determine the alternatives considered and to frame the effects analysis. This proposal has been listed in the Francis Marion and Sumter National Forests Schedule of Proposed Actions since 2010.

Dated: September 17, 2012.

Mike Crane,

District Ranger.

[FR Doc. 2012–23615 Filed 9–25–12; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Intent To Prepare a Joint Supplemental Environmental Impact Statement/Environmental Impact Report for the Tehachapi Renewable Transmission Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent.

SUMMARY: The USDA Forest Service, together with the California Public Utilities Commission (CPUC), will prepare a joint Supplemental Environmental Impact Statement (EIS) and Supplemental Environmental Impact Report (EIR) to assess the effects of Federal Aviation Administration (FAA) recommendations on National Forest System lands for the Tehachapi Renewable Transmission Project (TRTP). The CPUC granted Southern California Edison (SCE) approval to build TRTP in Decision 09–12–044 on non-federal lands, and the Forest Service approved SCE to implement the TRTP on National Forest System lands in a 2010 Record of Decision (ROD). The decision required SCE to consult with the FAA for aviation safety. The FAA recommended installing marker balls on certain transmission line spans and aviation lighting on certain transmission structures. These recommendations will be analyzed in the joint Supplemental EIS/EIR.

Following the public review period for the Draft Supplemental EIS/EIR the Forest Service and CPUC will issue a Final Supplemental EIS/EIR. The Forest Service will issue a ROD to document the decision to either approve or deny the changes to SCE's project. As the National Environmental Policy Act (NEPA) Lead Agency for the project, the Forest Service will conduct a detailed review of the effects of the FAA recommendations on National Forest

System lands. Within the Angeles National Forest it is estimated that approximately 649 marker balls on 119 spans and 4 structures with aviation lights would impact Segments 6 and 11 to implement the FAA's recommendations. Two of the 4 structures recommended for aviation lights are on private lands within the Angeles National Forest, and are not subject to Forest Service jurisdiction or control.

The Forest Service is providing notice of this analysis so that interested and affected individuals are aware of how they may participate and contribute towards the final decision on the TRTP by the Forest Service. **Note:** Segment 8A undergrounding options are not the subject of this Notice of Intent.

DATES: The Draft Supplemental EIS/EIR is expected to be published in January 2013. A 45-day comment period will occur following publication of the Notice of Availability in the **Federal Register**.

ADDRESSES: To request a copy of the Draft Supplemental EIS/SEIR or Final Supplemental EIS/EIR when it is available, or to obtain further information about the project, please write to the Angeles National Forest, c/o Aspen Environmental Group, 5020 Chesebro Road, Suite 200, Agoura Hills, CA 91301. Alternately, electronic comments may be sent to *trtpsuppeir-eis@aspeneg.com.* Electronic comments must be submitted as part of the actual email message, or as an attachment in plain text (.txt), Microsoft Word (.doc), rich text format(.rtf), or portable document format (.pdf). Information about the Supplemental EIS/EIR and the environmental review process will be posted on the Internet at: *http://www.fs.fed.us/r5/angeles/projects/.* This site will be used to post links to all public documents during the Supplemental EIS/EIR process.

FOR FURTHER INFORMATION CONTACT: Lorraine Gerchas, Special Uses Coordinator, Forest Service, Angeles National Forest, 701 N. Santa Anita Ave., Arcadia, CA 91006, phone: (626) 574–5281. For additional information related to the project on non-National Forest System lands, contact Mary Jo Borak, California Public Utilities Commission (CPUC), 505 Van Ness Avenue, San Francisco, CA 94102; phone: (415) 703–1333. All project-related documents are available on the Project Web site: *ftp://ftp.cpuc.ca.gov/gopher-data/environ/tehachapi_renewables/TRTP.htm.*

Responsible Official: The responsible official is Thomas Contreras, Forest Supervisor, Angeles National Forest, 701 North Santa Anita Avenue, Arcadia, California 91006.

SUPPLEMENTARY INFORMATION: Lead Agencies: The Forest Service is the Federal Lead Agency in accordance with 40 CFR 1501(b), and is responsible for the preparation of the Supplemental Draft EIS/EIR and Supplemental Final EIS/EIR.

Comments: Under NEPA regulations scoping is not required for supplements. As such, no NEPA scoping effort will occur as part of the Draft Supplemental EIS/EIR preparation process. No public scoping meetings will be held.

The Forest Service is not accepting public comment at this time, but the agency may be contacted with any questions, or requests for documents. The Draft Supplemental EIS/EIR will be made available for public comment. The comment period on the Draft Supplemental EIS/EIR is 45-days from the date the US Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**.

In the Final Supplemental EIS/EIR the Forest Service is required to respond to substantive comments received during the comment period for the Draft Supplemental EIS/EIR. The Forest Service is the NEPA Lead Agency and the responsible official is the Forest Supervisor, Angeles National Forest. The responsible official will decide whether and how to issue Special Use authorization for the modifications to the project or alternatives. The responsible official will also decide how to mitigate impacts of these actions and will determine when and how monitoring of effects will take place.

The TRTP Supplemental EIS/EIR decision and the reasons for the decision will be documented in the ROD. That decision will be subject to Forest Service Appeal Regulations (35 CFR part 215).

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 22.

Dated: September 18, 2012.

Thomas A. Contreras,

Forest Supervisor.

[FR Doc. 2012–23471 Filed 9–25–12; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

South Mississippi Electric Cooperative: Plant Ratcliffe, Kemper County Integrated Gasification Combined-Cycle (IGCC) Project

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: The Rural Utilities Service (RUS) has issued a Record of Decision (ROD) for the adoption of the Final Environmental Impact Statement (EIS) for the proposed participation of South Mississippi Electric Power Association (SMEPA) in Plant Ratcliffe, an Integrated Gasification Combined-Cycle Facility located in Kemper County, Mississippi (the Project). The Acting Administrator of RUS has signed the ROD, which is effective on the publication of this notice. The U.S. Department of Energy (DOE) prepared an Environmental Impact Statement (EIS) for the Project in cooperation with the U.S. Army Corps of Engineers (USACE). The purpose of the EIS was to evaluate the potential environmental impacts of the Project so that the DOE could assess potential cost-shared financing under the Clean Coal Power Initiative (CCPI) and issuance of a loan guarantee under the Energy Policy Act of 2005 (EPAct05), and the USACE could consider potential issuance of permits under Section 404 of the Clean Water Act.

The DOE/USACE Final EIS was issued in May 2010, and DOE issued their Record of Decision (ROD) in August 2010. RUS is considering providing a $480 million loan guarantee to SMEPA that would provide for the acquisition of a 15% undivided ownership interest in the Project. RUS adopted the Final EIS pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*), and in accordance with the Council on Environmental Quality's (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR Parts 1500–1508) and RUS's Environmental Policies and Procedures (7 CFR Part 1794). RUS determined that the actions covered by the DOE/USACE Final EIS and RUS's proposed action were substantially the same, given that no new infrastructure would be required for SMEPA's participation (40 CFR 1506.3(b)). RUS conducted an independent evaluation of the DOE/USACE Final EIS, the associated Mitigation Action Plan (MAP) and Record of Decision (ROD), determined the documentation met the standards of an adequate statement (40 CFR 1506.3(a)), and adopted the documentation (Subpart H, 7 CFR Part 1794).

ADDRESSES: To obtain copies of the ROD, or for further information, please contact Ms. Emily Orler, Environmental Protection Specialist, at USDA, Rural Utilities Service, 1400 Independence

Avenue SW., Stop 1571, Washington DC 20250–1571, (202) 720–1414, or *emily.orler@wdc.usda.gov.* The ROD is available on the RUS Web site, *http://www.rurdev.usda.gov/UWP-eis4.htm.*

SUPPLEMENTARY INFORMATION: SMEPA has requested financing from RUS to acquire a 15% undivided ownership interest in the Project. The Project was developed under DOE's Clean Coal Power Initiative (CCPI) by Mississippi Power Company (MPCo), and will demonstrate the feasibility of the Integrated Gasification Combined-Cycle (IGCC) technology for commercial operation. The Project has an expected net generation capacity of 573 MW, and has been designed to capture approximately 67% of the carbon dioxide (CO_2) that enters the facility as fuel. MPCo, a private utility that provides approximately a third of SMEPA's load through a power purchase agreement (PPA) at cost-based wholesale rates, approached SMEPA in 2009 with the opportunity to participate in the Project. Due to the existing PPA with MPCo, SMEPA rates will be affected regardless of their participation in the Project. Participation in the Project will allow SMEPA to meet projected future power demand and will provide potential cost savings through the wholesale rate reductions.

RUS circulated a Notice of Adoption and the Executive Summary of the DOE/USACE Final EIS, in accordance with 40 CFR 1502.19, and made the document available on the RUS Web site (*http://www.rurdev.usda.gov/UWP-eis4.htm*). RUS published a Notice of Adoption in the **Federal Register** on June 20, 2012 (77 FR 36996), and the U.S. Environmental Protection Agency acknowledged its receipt of the DOE/USACE Final EIS and RUS's intent to adopt the document in the **Federal Register** on June 29, 2012 (77 FR 38801), which began the 30-day public review period. The comment period concluded on July 31, 2012; RUS received three (3) comments, which are responded to in the ROD.

In accordance with NEPA, the CEQ regulations for implementing the procedural provisions of NEPA, and RUS's Environmental Policies and Procedures, RUS has determined that the environmental impacts of the Project have been adequately addressed. While acknowledging that SMEPA lacks sufficient control and responsibility over the Project, RUS determined that financing SMEPA's participation in the Project would be subject to NEPA and conducted an independent evaluation of the DOE/USACE Final EIS and associated documents. RUS also reviewed the engineering studies submitted by SMEPA that further assessed the purpose and need and alternatives of SMEPA's involvement in the Project. RUS has determined that its independent evaluation and adoption of the DOE/USACE FEIS fulfills its obligations under the above cited statute and regulations for its action related to the Project. Final loan approval for the Project is dependent on the conclusion of the financial and engineering reviews. Additional detail regarding RUS's regulatory authority, the rationale for the decision, and compliance with applicable regulation are included in the ROD.

Approval

This Record of Decision is effective on signature.

Dated: September 19, 2012.

John Charles Padalino,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2012–23603 Filed 9–25–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Current Population Survey.

OMB Control Number: 0607–0049.

Form Number(s): CPS–263, CPS–263(SP), CPS–264, CPS–264(SP), CPS–266, BC–1428, BC–1428(SP), BC–1433, BC–1433(SP), CPS–692, CPS–504.

Type of Request: Revision of a currently approved collection.

Burden Hours: 19,347.

Number of Respondents: 59,000.

Average Hours per Response: The demographic items within the monthly CPS interview (including school enrollment) take about 1.6 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to increase the universe for three of the questions within the Current Population Survey (CPS). The monthly school enrollment question in the Current Population Survey has long been collected for people from age 16 up to the age of 24, but changes in the population dictate a need to increase the universe up to the age of 54. Raising the age of respondents to which the monthly enrollment question is provided will substantially increase the data resources with which analysts and researchers identify the effects of federal education and training policies on key, policy-relevant populations. This change is sponsored by the National Center for Education Statistics (NCES).

The primary purpose of collecting the school enrollment data from the CPS is to relate demographic characteristics (age, sex, race, education, occupation, and income) to school enrollment behavior. Federal, state, and local governments; college institutions; research groups; and other private organizations use the school enrollment data collected. Increasing the universe will provide data on how federal investments in education and training are affecting those over 24. Additionally, monthly data allows us to measure adult enrollment in education that does not necessarily coincide with typical enrollments in the Fall for younger adults. Further, it allows better measurement of how enrollment responds both to changes in the business cycle and government policy—federal student aid training programs—that is not possible with any other federal data source.

Affected Public: Individuals or households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

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

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

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

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

Dated: September 21, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–23663 Filed 9–25–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

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

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received a request to revoke one antidumping duty order in part.

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam for two exporters.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register.** All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303. *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(3)(ii), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after August 2011, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the*

People's Republic of China, 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://www.trade.gov/ia* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [1] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name [2], should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://www.trade.gov/ia* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2013.

	Period to be reviewed
Antidumping Duty Proceedings	
Italy: Granular Polytetrafluoroethylene Resin A–475–703	8/1/11–7/31/12
Guarniflon SpA	
Japan: Brass Sheet and Strip A–588–704	8/1/11–7/31/12
Dowa Metals & Mining Co., Ltd.	
Fujisawa Co., Ltd.	
Furukawa Electric Co., Ltd.	
Harada Metal Industry	
Hitachi Alloy, Ltd.	
Hitachi Cable, Ltd.	
Kicho Shindosho Co., Ltd.	
Kitz Metal Works Corp.	
Kobe Steel, Ltd.	
Mitsubishi Materials Corp.	
Mitsubishi Electric Metecs Co., Ltd.	
Mitsubishi Shindoh Co., Ltd.	
Mitsui Mining & Smelting Co., Ltd. (Mitsui Kinzoku)	
Mitsui Sumitomo Metal Mining Brass & Copper Co., Ltd.	
NGK Insulators (NGK Metals)	
Nippon Mining & Metals Co., Ltd.	
Ohki Brass & Copper Co., Ltd.	
Sambo Copper Alloy Co., Ltd.	
Sugino Metal Industry Co., Ltd.	
Sumitomo Metal Mining Brass & Copper Co., Ltd.	
Uji Copper & Alloy Co., Ltd.	
YKK Corporation	
Mexico: Light-Walled Rectangular Pipe and Tube A–201–836	8/1/11–7/31/12
Maquilacero S.A. de C.V.	
Nacional de Acero S.A. de C.V.	
Regiomontana de Perfiles y Tubos S.A. de C.V.	

[1] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently complete segment of the proceeding in which they participated.

[2] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Republic of Korea: Corrosion-Resistant Carbon Steel Flat Products A–580–816	8/1/11–7/31/12
Dongbu Steel Co., Ltd.	
Dongkuk Industries Co., Ltd.	
Haewon MSC Co., Ltd.	
Hyundai HYSCO	
LG Chem Ltd.	
LG Hausys, Ltd.	
Union Steel Manufacturing Co., Ltd.	
Romania: Carbon and Alloy Seamless Standard, Line and Pressure Pipe A–485–805	8/1/11–7/31/12
ArcelorMittal Tubular Products Roman S.A.	
Canadian Natural Resources Limited	
Socialist Republic of Vietnam: Certain Frozen Fish Fillets [3] A–552–801	8/1/11–7/31/12
An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish or AnGiang Fisheries Import and Export)	
An My Fish Joint Stock Company	
An Phu Seafood Corporation (also known as ASeafood)	
Anvifish Co., Ltd.	
Anvifish Joint Stock Company (also known as Anvifish JSC)	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC)	
Bien Dong Seafood Co., Ltd.	
Binh An Seafood Joint Stock Co.	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (Cadovimex II)	
Cadovimex II	
Cantho Import-Export Seafood Joint Stock Company (also known as CASEAMEX)	
CUU Long Fish Joint Stock Company (aka CL-Fish)	
Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish)	
Dai Thanh Seafoods Co., Ltd. (also known as DATHACO)	
Dai Thanh Seafoods Company Limited	
DOCIFISH Corporation	
East Sea Seafood Co., Ltd.	
East Sea Seafoods Joint Venture Co., Ltd.	
East Sea Seafoods LLC	
Fatifish Company Limited	
GODACO Seafood Joint Stock Company	
Green Farms Seafood Joint Stock Company	
Hiep Thanh Seafood Joint Stock Company	
Hoa Phat Seafood Import-Export and Processing J.S.C.	
Hoang Long Seafood Processing Co., Ltd.	
Hung Vuong Seafood Joint Stock Company	
International Development & Investment Corporation (also known as IDI)	
Nam Viet Company Limited (aka NAVICO)	
Nam Viet Corporation	
NTSF Seafoods Joint Stock Company (also known as NTSF)	
Quang Minh Seafood Co., Ltd.	
QVD Food Company, Ltd.	
QVD Dong Thap Food Co., Ltd.	
Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO)	
Seafood Joint Stock Company No.4 Branch Dongtam Fisheries Processing Company	
Southern Fishery Industries Company, Ltd. (also known as South Vina)	
Sunrise Corporation	
Thien Ma Seafood Co., Ltd. (also known as THIMACO)	
Thuan An Production Trading & Services Co., Ltd. (also known as TAFISHCO)	
Thuan Hung Co., Ltd. (also known as THUFICO)	
To Chau Joint Stock Company	
Viet Phu Food & Fish Corporation	
Vinh Hoan Corporation	
Vinh Hoan Company Ltd.	
Vinh Quang Fisheries Corporation	
Thailand: Polyethylene Retail Carrier Bags A–549–821	8/1/11–7/31/12
Elite Poly and Packaging Co., Ltd.	
Multibax Public Company Limited	
PMC Innopack Co., Ltd.	
Prepack Thailand Co., Ltd.	
TPN Flexpak Co., Ltd.	
Superpac Corporation Co., Ltd.	
Siam Best Products Trading Limited Partnership	
Two Path Plaspack Co. Ltd.	
Sun Pack Inter Co. Ltd.	
Apple Film Company, Ltd.	
Trinity Pac Co. Ltd.	
The People's Republic of China: Certain Steel Nails [4] A–570–909	8/1/11–7/31/12
3C Interglobal Ltd.	
ABF Freight System, Inc.	

	Period to be reviewed
Agritech Products Ltd.	
Aihua Holding Group Co., Ltd.	
Aironware (Shanghai) Co. Ltd.	
Anping County Anning Wire Mesh Co.	
Anping Fuhua Wire Mesh Making Co.	
Anping Shuangmai Metal Products Co.	
Apex Qingdao Shipping Co., Ltd.	
APM Global Logistics O/B Hasbro Toy	
ATE Logistics Co., Ltd.	
Ba Shi YUuexin Logistics Development	
Beijing Daruixing Global Trading Co., Ltd.	
Beijing Daruixing Nail Products Co., Ltd.	
Beijing Hong Sheng Metal Products Co., Ltd.	
Beijing Hongsheng Metal Products Co., Ltd.	
Beijing Jinheuang Co., Ltd.	
Beijing Kang Jie Kong Cargo Agent	
Beijing KJK Intl Cargo Agent Co., Ltd.	
Beijing Long Time Rich Tech Develop	
Beijing Tri-Metal Co., Ltd.	
Beijing World Resource Time Int'l	
Beijing Yonghongsheng Metal Products Co., Ltd.	
Bellan International Limited	
Besco Machinery Industry (Zhejiang) Co., Ltd.	
Big China International Enterprise	
Brighten International, Inc.	
Brilliant Globe Logistics Inc.	
Cana (Tianjin) Hardware Ind., Co., Ltd.	
Canada Find Parts and Supplies Inc.	
Century Shenzhen Xiamen Branch	
Certified Products International Inc.	
Changzhou MC I/E Co., Ltd.	
Changzhou Quyuan Machinery Co., Ltd.	
Changzhou Refine Flag & Crafts Co., Ltd.	
Chao Jinqiao Welding Material Co., Ltd.	
Chaohu Bridge Nail Industry Co., Ltd.	
Chaohu Jinqiao Welding Material Co.	
Chewink Corp.	
Chia Pao Metal Co., Ltd.	
Chiieh Yung Metal Ind. Corp.	
China Container Line (Shanghai) Ltd.	
China Ningbo Cixi Imp. & Exp. Corp.	
China Olsem Industrial and Internat	
China Rainbow Int'l Industry Ltd.	
China Silk Trading & Logistics Co., Ltd.	
China Staple Enterorise (Tianjin) Co., Ltd.	
Chongqing Hybest Nailery Co., Ltd.	
Chongqing Hybest Tools Group co., Ltd.	
Cintee Steel Products Co., Ltd.	
Cyber Express Corporation	
CYM (Nanjing) Nail Manufacture Co., Ltd.	
CYM (Nanjing) Ningquan Nail Manufacture Co., Ltd.	
Dagang Zhitong Metal Products Co., Ltd.	
Dalian Taihua North Trading Co., Ltd.	
Dalixi Co., Limited	
Damco Shenzhen	
Daxing Niantan Industrial	
De Well Container Shipping Inc.	
Delix International Co., Ltd.	
Deweiya Shoes Co., Ltd.	
Dezhou Hualude Hardware Products Co., Ltd.	
Dingzhou Derunda Material and Trade Co., Ltd.	
Dingzhou Ruili Nail Production Co., Ltd.	
Dong'e Fugiang Metal Products Co., Ltd.	
Dongguan Five Stone Machinery Products Trading Co., Ltd.	
Dynamic Network Container Line Limited	
ECO System Co., Ltd.	
ECO System Corporation	
Elite International Logistics Co.	
Elite Master International Ltd.	
England Rich Group (China) Ltd.	
Entech Manufacturing (Shenzhen) Ltd.	
Expeditors China Tianjin Branch	
Expeditors Tianjin Branch as Agent	

	Period to be reviewed
Faithful Engineering Products Co. Ltd.	
Fedex International Freight Forward Agency Services (Shanghai) Co., Ltd.	
Feiyin Co., Ltd.	
Fension International Trade Co., Ltd.	
Foreign Economic Relations & Trade	
Fujiansmartness Imp. & Exp. Co., Ltd.	
Fuzhou Builddirect Ltd.	
Goal Well Stone Co., Ltd.	
Gold Union Group Ltd.	
Goldever International Logistics Co.	
Goldmax United Ltd.	
Grace News Inc.	
Guangdong Foreign Trade Import & Export Corporation	
Guangdong Xionglue Technology	
Guangzhou Qiwei Imports and Exports Co., Ltd.	
Guoxin Group Wang Shun I/E Co., Ltd.	
GWP Industries (Tianjin) Co., Ltd.	
GWP Manufacturing Corp.	
H.W.C.	
Haierc Industry Co., Ltd.	
Haixing Hongda Hardware Production Co., Ltd.	
Haixing Linhai Hardware Products Factory	
Haiyan Fefine Import and Export Co.	
Handuk Industrial Co., Ltd.	
Hangzhou Esrom Imp. and Exp. Co.	
Hangzhou Kelong Electrical Appliance & Tools Co. Ltd.	
Hangzhou Light Industrial Products	
Hangzhou New Line Co., Ltd.	
Hangzhou Quanda Nails Co., Ltd.	
Hangzhou Zhongding Imp. & Exp. Co., Ltd.	
Hebei Brother International Trading	
Hebei Cangzhou New Century Foreign Trade Co., Ltd.	
Hebei Development Metals Co., Ltd.	
Hebei Five-Star Metal Products Co.	
Hebei Jinsidun (JSD) Co., Ltd.	
Hebei Machinery Import and Export Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Hebei My Foreign Trade Co., Ltd.	
Hebei Richylin Trading Co., Ltd.	
Hebei Super Star Pneumatic Nails Co., Ltd.	
Hecny Shipping Limited	
Henan Pengu Hardware Manufacturing Co., Ltd.	
Hengshui Mingyao Hardware & Mesh Products Co., Ltd.	
Heretops (Hong Kong) International Ltd.	
Heretops Import & Export Co., Ltd.	
Hilti (China) Limited	
HK Villatao Sourcing Co., Ltd.	
Hong Kong Hailiang Metal Trading Ltd.	
Hong Kong Yu Xi Co., Ltd.	
Honour Lane Shipping Ltd. Qingdao	
Huadu Jin Chuan Manufactory Co Ltd.	
Huanghua Honly Industry Corp.	
Huanghua Huarong Hardware Products Co., Ltd.	
Huanghua Jinhai Hardware Products Co., Ltd.	
Huanghua Jinhai Import and Exports	
Huanghua Jinhai Metal Products Co., Ltd.	
Huanghua Juhong Hardware Products Co., Ltd.	
Huanghua Shenghua Hardware Manufactory Factory	
Huanghua Xinda Nail Production Co., Ltd.	
Huanghua Xionghua Hardware Products Co., Ltd.	
Huanghua Yufutai Hardware Products Co., Ltd.	
Hubei Boshilong Technology Co., Ltd.	
Huiyuan Int'l Commerce Exhibition Co., Ltd.	
Jiashan Superpower Tools Co., Ltd.	
Jiaxing Yaoliang Import & Export Co., Ltd.	
Jinheung Co., Ltd.	
Jinhua Kaixin Imp & Exp Ltd.	
Jining Huarong Hardware Products Co., Ltd.	
JISCO Corporation	
Joto Enterprise Co., Ltd.	
K.D.W. Co., Ltd.	
K.E. Kingstone	
Karuis Custom Metal Parts Mfg. Ltd.	

	Period to be reviewed
Kasy Logistics (Tianjin) Co., Ltd.	
Key Joy Industrial Ltd.	
Keyun Shipping Agency Co., Ltd.	
Kitty Royal (HK) International Industrial	
Koram Panagene Co., Ltd.	
Kuehne & Nagel Ltd.	
Kum Kang Trading Co., Ltd.	
Kyung Dong Corp.	
Le Group Industries Corp. Ltd.	
Leang Wey Int. Business Co., Ltd.	
Liang's Industrial Corp.	
Lijiang Liantai Trading Co., Ltd.	
Linhai Chicheng Arts & Crafts Co., Ltd.	
Lins Corp.	
Linyi Flying Arrow Imp & Exp. Co., Ltd.	
Maanshan Cintee Steel Products Co., Ltd.	
Maanshan Leader Metal Products Co. Ltd.	
Maanshan Longer Nail Product Co., Ltd.	
Manufacutersinchina (HK) Company Ltd.	
Marsh Trading Ltd.	
Master International Co., Ltd.	
Mingguang Abundant Hardware Products Co., Ltd.	
Montana (Taiwan) Int'l Co., Ltd.	
Motao International Ltd.	
Nanjing Dayu Pneumatic Gun Nails Co., Ltd.	
Nanjing Nuo Chun Hardware Co., Ltd.	
Nanjing Yuechang Hardware Co. Ltd.	
Nantong Corporation for Internation	
NEO GLS	
Ningbo Bolun Electric Co., Ltd.	
Ningbo Dollar King Industrial Co., Ltd.	
Ningbo Endless Energy Electronic Co., Ltd.	
Ningbo Fension International Trade Center	
Ningbo Fortune Garden Tools and Equipment Inc.	
Ningbo Haixin Railroad Material Co.	
Ningbo Huamao Imp & Exp. Co., Ltd.	
Ningbo Hyderon Hardware Co., Ltd.	
Ningbo JF Tools Industrial Co., Ltd.	
Ningbo KCN Electric Co., Ltd.	
Ningbo Meizhi Tools Co., Ltd.	
Ningbo Ordam Import & Export Co., Ltd.	
Ningbo Raffini Import & Export	
Ningbo Raffini Import & Export Co.	
NYK Logistics (China) Co., Ltd.	
Ocean King Industries Limited	
Oceanblue Int'l Trading Co., Ltd.	
OEC Logistics (Qingdao) Co. Ltd.	
Olsen Industrial and International	
Omega Products International	
OOCL Logistics O B oF Winston Marketing Group Orisun Electronics HK Co., LTd.	
Oriental Cherry Hardware Group Co., Ltd.	
Oriental Logistics Group Ltd	
Pacole International Ltd.	
Panagene Inc.	
Patek Tool Co., Limited	
Pavilion Investmen Ltd.	
Perfect Seller Co., Ltd.	
Prominence Cargo Service, Inc.	
PT Enterprise Inc.	
Pudong Trans USA, Inc.	
Qianshan Huafeng Trading Co., Ltd.	
Qidong Liang Chyuan Metal Industry Co., Ltd.	
Qingao Aoxin Wood Industry Co., Ltd.	
Qingdao Apex Shipping Co., Ltd.	
Qingdao Bestworld Industry Trading	
Qingdao Cheshire Trading Co., Ltd.	
Qingdao D & L Supply Group Co., Ltd.	
Qingdao D&L Group Ltd.	
Qingdao Denarius Manufacture Co. Limited	
Qingdao Glory Unit Trade Co., Ltd.	
Qingdao Golden Sunshine ELE–EAQ Co., Ltd.	
Qingdao Huarui Industrial Products	
Qingdao International Fastening Systems Inc.	

	Period to be reviewed
Qingdao Jisco Co., Ltd.	
Qingdao Keyun Logistics Co., Ltd.	
Qingdao Koram Steel Co., Ltd.	
Qingdao Lutai Industrial Products Manufacturing Co., Ltd.	
Qingdao Meijia Metal Products Co.	
Qingdao Mingkai Metal Industrial Ltd.	
Qingdao Relly Industry & Commerce	
Qingdao Rohuida International Trading Co.,	
Qingdao Shantron Int'l Trade Co., Ltd.	
Qingdao Sino-Sun International Trading Company Limited	
Qingdao Super United Metals & Wood Prods. Co. Ltd.	
Qingdao Tiger Hardware Co., Ltd.	
Qingdao TISCO Co., Ltd.	
Qingdao Uni-Trend International Limited	
Qingfu Metal Craft Manufacturing Ltd.	
Qinghai Wutong (Group) Industry Co.	
Qingyuan County Hongyi Hardware Products Factory	
Qingyun Hongyi Hardware Factory	
Qinhuangdao Kaizheng Industry and Trade Co.	
Q-Yield Outdoor Great Ltd.	
Region International Co., Ltd.	
Rich Shipping Company Limited	
Richard Hung Ent. Co. Ltd.	
River Display Ltd.	
Rizhao Changxing Nail-Making Co., Ltd.	
Rizhao Handuk Fasteners Co., Ltd.	
Rizhao Qingdong Electronic Appliance Co.,	
Romp (Tianjin) Hardware Co., Ltd.	
Saikelong Electric Appliances (Suzhou) Co.,	
Samsar Exports (HK) Company	
SDC International Australia Pty., Ltd.	
SDV PRC International Freight	
Se Jung (China) Shipping Co., Ltd.	
Seamaster Global Forwarding (China)	
Seamaster Logistics Inc.	
Seatrade International Incorporation	
Senco Products, Inc.	
Senco-Xingya Metal Products (Taicang) Co., Ltd.	
Shandex Co. Economic Developing	
Shandex Co., Ltd.	
Shandex Industrial Inc.	
Shandong Dinglong Import & Export Co., Ltd.	
Shandong Liaocheng Minghua Metal Products Co. Ltd.	
Shandong Minmetals Co., Ltd.	
Shandong Oriental Cherry Hardware Group Co., Ltd.	
Shandong Oriental Cherry Hardware Import and Export Co., Ltd.	
Shandong Qingyun Hongyi Hardware Prods Co Ltd	
Shanghai C&D Co. Ltd.	
Shanghai Chengkai Hardware Product. Co., Ltd.	
Shanghai Colour Nail Co., Ltd.	
Shanghai Curvet Hardware Products Co., Ltd.	
Shanghai Ding Ying Printing & Dyeing CLO	
Shanghai GBR Group International Co.	
Shanghai Goldenbridge International	
Shanghai Holiday Import & Export Co., Ltd.	
Shanghai Jade Shuttle Hardware Tools Co., Ltd.	
Shanghai Jian Jie International TRA	
Shanghai KJ Import & Export Co., Ltd.	
Shanghai March Import & Export Company Ltd.	
Shanghai Mizhu Imp & Exp Corporation	
Shanghai Nanhui Jinjun Hardware Factory	
Shanghai Pioneer Speakers Co., Ltd.	
Shanghai Pudong Int'l Transportation Booking Dep't	
Shanghai Seti Enterprise International Co., Ltd.	
Shanghai Shengxiang Hardware Co.	
Shanghai Suyu Railway Fastener Co.	
Shanghai Tengyu Hardware Products Co., Ltd.	
Shanghai Tengyu Hardware Tools Co., Ltd.	
Shanghai Topnotch International	
Shanghai Tymex International Trade Co., Ltd.	
Shanghai Vantell Industry Development Co., Ltd.	
Shanghai Yueda Nails Industry Co., Ltd.	
Shanxi Hairui Trade Co., Ltd.	

	Period to be reviewed
Shanxi Pioneer Hardware Industrial Co., Ltd.	
Shanxi Pioneer Hardware Industrial Co., Ltd.	
Shanxi Tianli Enterprise Co., Ltd.	
Shanxi Tianli Industries Co., Ltd.	
Shanxi Yuci Broad Wire Products Co., Ltd.	
Shanxi Yuci Broad Wire Products Co., Ltd.	
Shanxi Yuci Wire Material Factory	
Shaoguang International Trade Co.	
Shaoxing Chengye Metal Producting Co., Ltd.	
Shenyang Yulin International	
Shenzhen Changxinghongye Imp.	
Shenzhen Erisson Technology Co., Ltd.	
Shenzhen Hengxinli Trading Co., Ltd.	
Shenzhen Meihuiyang Export Co., Ltd.	
Shenzhen Meiyuda Trade Co., Ltd.	
Shenzhen Pacific-Net Logistics Inc.	
Shenzhen Shangqi Imports-Exports TR	
Shenzhen Shunxingli Import Export	
Shenzhen Wang Le Tian Import and Export	
Shenzhen Yuanshun Xiang Trading Co.	
Shijiazhuang Anao Imp & Export Co. Ltd.	
Shijiazhuang Fangyu Import & Export Corp.	
Shijiazhuang Fitex Trading Co., Ltd.	
Shijiazhuang Glory Way Trading Co.	
Shijiazhuang Shuangjian Tools Co., Ltd.	
Shitong Int'l Holding Limited	
Shouguang Meiqing Nail Industry Co., Ltd.	
Shouguang Xinlong New Material Co., Ltd.	
Sinochem Tianjin Imp & Exp Shenzhen Corp.	
Sinosource Zhongding Int'l Ltd.	
Sirius Global Logistics Co., Ltd.	
S-Mart (Tianjin) Technology Development Co., Ltd.	
Stanley Black & Decker, Inc.	
Stanley Fastening Systems LP	
STD Logistics Ltd.	
Summit Logistics International	
Sunfield Enterprise Corporation	
Sunlife Enterprises (Yangjiang) Ltd.	
Suntec Industries Co., Ltd.	
Sunway Logistics USA Inc.	
Sunworld International Logistics	
Superior International Australia Pty Ltd.	
Suzhou Guoxin Group Wangshun I/E Co. Imp. Exp. Co., Ltd.	
Suzhou Xingya Nail Co., Ltd.	
Suzhou Yaotian Metal Products Co., Ltd.	
T.H.I. Group (Shanghai) Ltd.	
Taihe International Industries Co., Ltd.	
Tampin Sin Yong Wai Industry	
Team Builder Enterprise Ltd.	
Telex Hong Kong Industry Co., Ltd.	
The Everest Corp.	
The Stanley Works (Langfang) Fastening Systems Co., Ltd.	
Thermwell Products	
Tian Jin Sundy Co., Ltd. (a/k/a/Tianjin Sunny Co., Ltd.)	
Tianjin Baisheng Metal Product Co., Ltd.	
Tianjin Bosai Hardware Tools Co., Ltd.	
Tianjin Chengyi International Trading Co., Ltd.	
Tianjin Chentai International Trading Co., Ltd.	
Tianjin City Dagang Area Jinding Metal Products Factory	
Tianjin City Daman Port Area Jinding Metal Products Factory	
Tianjin City Jinchi Metal Products Co., Ltd.	
Tianjin Dagang Dongfu Metallic Products Co., Ltd.	
Tianjin Dagang Hewang Nail Factory	
Tianjin Dagang Hewang Nails Manufacture Plant	
Tianjin Dagang Huasheng Nailery Co., Ltd.	
Tianjin Dagang Jingang Nail Factory	
Tianjin Dagang Jingang Nails Manufacture Plant	
Tianjin Dagang Linda Metallic Products Co., Ltd.	
Tianjin Dagang Longhua Metal Products Plant	
Tianjin Dagang Shenda Metal Products Co., Ltd.	
Tianjin Dagang Yate Nail Co., Ltd.	
Tianjin Dery Import and Export Co., Ltd.	
Tianjin Everwin Metal Products Co., Ltd.	

	Period to be reviewed
Tianjin Foreign Trade (Group) Textile & Garment Co., Ltd.	
Tianjin Hewang Nail Making Factory	
Tianjin Hongli Qiangsheng Import/Export Co. Ltd.	
Tianjin Huachang Metal Products Co., Ltd.	
Tianjin Huapeng Metal Company	
Tianjin Huasheng Nails Production Co., Ltd.	
Tianjin Jetcom Manufacturing Co., Ltd.	
Tianjin Jieli Hengyuan Metallic Products Co., Ltd.	
Tianjin Jietong Hardware Products Co., Ltd.	
Tianjin Jietong Metal Products Co., Ltd.	
Tianjin Jin Gang Metal Products Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Tianjin Jinghai County Hongli Industry & Business Co., Ltd.	
Tianjin Jinjin Pharmaceutical Factory Co., Ltd.	
Tianjin Jishili Hardware Co., Ltd.	
Tianjin JLHY Metal Products Co., Ltd.	
Tianjin Jurun Metal Products Co., Ltd.	
Tianjin Juxiang Metal Products Co., Ltd.	
Tianjin Kunxin Hardware Co., Ltd.	
Tianjin Kunxin Metal Products Co., Ltd.	
Tianjin Lianda Group Co., Ltd.	
Tianjin Linda Metal Company	
Tianjin Longxing (Group) Huanyu Imp. & Exp. Co., Ltd.	
Tianjin Master Fastener Co., Ltd. (a/k/a Master Fastener Co., Ltd.)	
Tianjin Mei Jia Hua Trade Co., Ltd.	
Tianjin Metals and Minerals	
Tianjin Port Free Trade Zone Xiangtong Intl. Industry & Trade Corp.	
Tianjin Pro Team Hardware Co., Ltd.	
Tianjin Products & Energy Resources Dev. Co., Ltd.	
Tianjin Qichuan Metal Co. Ltd.	
Tianjin Qichuan Metal Products Co., Ltd.	
Tianjin Ruiji Metal Products Co., Ltd.	
Tianjin Senbohengtong International	
Tianjin Senbohengtong Metal Product	
Tianjin Senmiao Import and Export Co., Ltd.	
Tianjin Shenyuan Steel Producting Group Co., Ltd.	
Tianjin Shishun Metal Product Co., Ltd.	
Tianjin Shishun Metallic Products Co., Ltd.	
Tianjin Sunny Co., Ltd.	
Tianjin Tailai Import Export	
Tianjin Universal Machinery Imp & Exp Corporation	
Tianjin Xiantong Fucheng Gun Nail Manufacture Co., Ltd.	
Tianjin Xiantong Juxiang Metal MFG Co., Ltd.	
Tianjin Xiantong Material & Trade Co., Ltd.	
Tianjin Xinyuansheng Metal Products Co., Ltd.	
Tianjin Yihao Metallic Products Co., Ltd.	
Tianjin Yongchang Metal Product Co., Ltd.	
Tianjin Yongxu Metal Products Co., Ltd.	
Tianjin Yongye Furniture	
Tianjin Yongyi Standard Parts Production Co., Ltd.	
Tianjin Zhong Jian Wanli Stone Co., Ltd.	
Tianjin Zhonglian Metals Ware Co., Ltd.	
Tianjin Zhongsheng Garment Co., Ltd.	
Tianwoo Logistics Developing Co. Ltd.	
Toll Global Forwarding (Hong Kong)	
Top Shipping Logistics Co., Ltd.	
Topocean Consolidation Service (CHA) Ltd.	
Traser Mexicana, S.A. De C.V.	
Treasure Way International Dev. Ltd.	
True Value Company (HK) Ltd.	
U.S. Shipping, Inc.	
Unicatch Industrial Co. Ltd.	
Unigain Trading Co., Ltd.	
Union Enterprise (Kunshan) Co., Ltd. a.k.a. Union Enterprise Co., Ltd.	
Union Enterprise Co., Ltd.	
Vinin Industries Limited	
Wang Jing	
Weifang Hecheng International Trade Co Ltd.	
Weifang Wenhe Pneumatic Tools Co., Ltd.	
Weifang Xiaotian Machine Co., Ltd.	
Wenzhou KLF Medical Plastics Co., Lt.	
Wenzhou Ouxin Foreign Trade Co., Ltd.	
Wenzhou Xinhe Import and Export Co.	

	Period to be reviewed
Wenzhou Yuwei Foreign Trade Co., Ltd.	
Whorthy Asia Ltd.	
Winner Power International Limited	
Winnsen Industry Co., Ltd.	
Winsmart International Shipping Ltd. O/B Zhaoqing Harvest Nails Co., Ltd.	
Winston Marketing Group	
Wintime Import & Export Corporation Limited of Zhongshan	
Worldwide Logistics Co., Ltd. (Tianjin Branch)	
Wuhan Xinxin Native Produce & Animal By-Products Mfg. Co. Ltd.	
Wuhu Sheng Zhi Industrial Co., Ltd.	
Wuhu Shijie Hardware Co., Ltd.	
Wuhu Xin Lan De Industrial Co., Ltd.	
Wuqiao County Huifeng Hardware Products Factory	
Wuqiao County Xinchuang Hardware Products Factory	
Wuqiao Huifeng Hardware Production Co., Ltd.	
Wuxi Baolin Nail Enterprises	
Wuxi Baolin Nail-Making Machinery Co., Ltd.	
Wuxi Chengye Metal Products Co., Ltd.	
Wuxi Colour Nail Co., Ltd.	
Wuxi Jinde Assets Management Co., Ltd.	
Wuxi Moresky Developing Co., Ltd.	
Wuxi Qiangye Metalwork Production Co., Ltd.	
Xiamen New Kunlun Trade Co., Ltd.	
Xi'an Metals & Minerals Import and Export Co., Ltd.	
Xi'an Metals & Minerals Import and Export Co.	
Xi'an Steel	
XIWU Plastic Products Factory	
XL Metal Works Co., Ltd.	
XM International, Inc.	
Xuzhou CIP International Group Co., Ltd.	
Yeswin Corporation	
Yitian Nanjing Hardware Co., Ltd.	
Yiwu Dongshun Toys Manufacture	
Yiwu Excellent Import & Export Co., Ltd.	
Yiwu Jiehang Import & Export Co., Ltd.	
Yiwu Qiaoli Import & Export Co., Ltd.	
Yiwu Richway Imp & Exp Co., Ltd.	
Yiwu Zhongai Toys Co., Ltd.	
YM Corporation Limited	
Yongcheng Foreign Trade Corp.	
Yu Chi Hardware Co., Ltd.	
Yue Sang Plastic Factory	
Yuhuan Yazheng Importing	
ZEN Continental (Tianjin) Enterprises Co., Ltd.	
Zhangjiagang Lianfeng Metals Products Co.,ltd	
Zhangjiagang Longxiang Packing Materials Co.	
Zhaoqing Harvest Nails Co., Ltd.	
Zhejiang Chaoyue Hardware & Chemical Co., Ltd.	
Zhejiang Gem-Chun Hardware Accessory Co., Ltd.	
Zhejiang Hungyan Xingzhou Industria	
Zhejiang Jinhua Nail Factory	
Zhejiang Minmetals Sanhe Imp & Exp Co.	
Zhejiang Qifeng Hardware Make Co., Ltd.	
Zhejiang Taizhou Eagle Machinery Co.	
Zhejiang Yiwu Huishun Import/Export Co., Ltd.	
Zhongge International Trade Co., Ltd.	
Zhongshan Junlong Nail Manufactures Co., Ltd.	
ZJG Lianfeng Metals Product Ltd.	
The People's Republic of China: Laminated Woven Sacks [5] A–570–916	8/1/11–7/31/12
Zibo Aifudi Plastic Packaging Co., Ltd.	
The People's Republic of China: Polyethylene Retail Carrier Bags [6] A–570–886	8/1/11–7/31/12
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa)	
Countervailing Duty Proceedings	
Republic of Korea: Corrosion-Resistant Carbon Steel Flat Products C–580–818	1/1/11–12/31/11
Dongbu Steel Co., Ltd.	
Hyundai HYSCO	
Pohang Iron & Steel Co., Ltd./Pohang Coated Steel Co., Ltd. (POSCO)	
Turkey: Certain Pasta [7] C–489–806	1/1/11–12/31/11
Bellini Gida Sanayi A.S.	

	Period to be reviewed
Suspension Agreements	
None.	

[3] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam who have not qualified for a separate rate are deemed to be covered by this review as part of the single Vietnam entity of which the named exporters are a part.

[4] If the above-named company does not qualify for a separate rate, all other exporters of Certain Steel Nails from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[5] If the above-named company does not qualify for a separate rate, all other exporters of Laminated Woven Sacks from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[6] If the above-named company does not qualify for a separate rate, all other exporters of Polyethylene Retail Carrier Bags from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[7] The company listed above was misspelled in the initiation notice that published on August 30, 2012 (77 FR 52688). The correct spelling of the company is listed in this notice.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the period of review.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*''), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011 if the submitting party does not comply with the revised certification requirements.

These initiations and this notice are in accordance with section 751(a) of the Act (19 USC 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 19, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–23685 Filed 9–25–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–838]

Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty New Shipper Review

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

SUMMARY: On April 27, 2012, the Department of Commerce (''Department'') published in the **Federal Register** the preliminary results of the new shipper review of the antidumping duty order on seamless refined copper tube and pipe from Mexico.[1] This review covers one producer and exporter, GD Affiliates S. de R.L. de C.V. (Golden Dragon).[2] We gave interested parties an opportunity to comment on the *Preliminary Results* and, based upon our analysis of the comments, we have made changes to the margin calculation for the final results of this new shipper review. Golden Dragon's final weighted-average dumping margin is listed below in the ''Final Results of Review'' section of this notice. The period of review (''POR'') is November 22, 2010, through April 30, 2011.

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

FOR FURTHER INFORMATION CONTACT: Dennis McClure, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW.,

[1] *Seamless Refined Copper Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty New Shipper Review*, 77 FR 25136 (April 27, 2012) (''*Preliminary Results*'').

[2] As noted in the *Preliminary Results*, we use the name Golden Dragon when we refer to the collective group of Golden Dragon companies, which includes GD Affiliates S. de R.L. de C.V. who requested the review.

Washington, DC 20230; telephone: (202) 482–5973.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2012, the Department published in the **Federal Register** the *Preliminary Results* of the new shipper review of the antidumping duty order on seamless copper pipe and tube from Mexico. We invited parties to comment on the Preliminary Results. We received comments from the Petitioners [3] on May 30, 2012. We received rebuttal comments from Golden Dragon on June 4, 2012. On June 19, 2012, the Department extended the deadline for the final until September 20, 2012.[4]

Scope of the Order

For the purpose of the order, the products covered are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to 6 inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter (''OD''), regardless of wall thickness, bore (*e.g.*, smooth, enhanced with inner grooves or ridges), manufacturing process (*e.g.*, hot finished, cold-drawn, annealed), outer surface (*e.g.*, plain or enhanced with grooves, ridges, fins, or gills), end finish (*e.g.*, plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (*e.g.*, plastic, paint), insulation, attachments (*e.g.*, plain, capped, plugged, with compression or other fitting), or physical configuration (*e.g.*, straight, coiled, bent, wound on spools).

The scope of the order covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (''ASTM'') ASTM–B42, ASTM–B68, ASTM–B75, ASTM–B88, ASTM–B88M, ASTM–B188, ASTM–B251, ASTM–B251M, ASTM–B280, ASTM–B302, ASTM–B306, ASTM–359, ASTM–B743, ASTM–B819, and ASTM–B903 specifications and meeting the physical parameters described therein. Also included within the scope of the order are all sets of covered products, including ''line sets'' of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase ''all sets of covered products'' denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

''Refined copper'' is defined as: (1) Metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits:

Element	Limiting content percent by weight
Ag—Silver	0.25
As—Arsenic	0.5
Cd—Cadmium	1.3
Cr—Chromium	1.4
Mg—Magnesium	0.8
Pb—Lead	1.5
S—Sulfur	0.7
Sn—Tin	0.8
Te—Tellurium	0.8
Zn—Zinc	1.0
Zr—Zirconium	0.3
Other elements (each)	0.3

Excluded from the scope of the order are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to the order are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Products subject to the order may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties are addressed in the ''Seamless Refined Copper Pipe and Tube from Mexico: Issues and Decision Memorandum for the Final Results of the New Shipper Review'' (''Decision Memorandum''), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties raised is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this new shipper review and the corresponding recommendation in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit (''CRU''), room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/*. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we have made changes to the margin calculation for Golden Dragon. *See* the Decision Memorandum for a complete explanation of the Department's decision.

Final Results of New Shipper Review

As a result of our review, we determine that the following weighted-average dumping margin exists for Golden Dragon for the period November 22, 2010, through April 30, 2011:

Manufacturer/exporter	Weighted-average dumping margin (percent)
Golden Dragon [5]	5.53

Assessment Rate

The Department will determine,and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

Golden Dragon's weighted-average dumping margin is above *de minimis* in the final results of this review, and, therefore we have calculated importer-specific (or customer-specific) *ad valorem* antidumping duty assessment rates. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of the subject merchandise by Golden Dragon entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, consistent with section 751(a)(2)(C) of the Act: (1) For subject merchandise manufactured and exported by Golden Dragon, the cash

[3] Cerro Flow Products, LLC, Wieland Copper Products, LLC, Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc. (collectively, ''the Petitioners'').

[4] Memorandum to Christian Marsh, from Dennis McClure, Re: Seamless Refined Copper Pipe and Tube from Mexico: Extension of Deadline for Final Results of Antidumping Duty New Shipper Review, dated, June 19, 2012.

[5] Golden Dragon includes GD Affiliates S. de R.L. de C.V.

deposit rate will be 5.53 percent; (2) for subject merchandise exported by Golden Dragon but not manufactured by Golden Dragon, the cash deposit rate will be the all others rate (*i.e.*, 26.03 percent); (3) for subject merchandise manufactured by Golden Dragon but exported by any party other than Golden Dragon, the cash deposit rate will be the all others rate. These requirements, when imposed, shall remain in effect until further notice.

Further, effective upon publication of the final results, we intend to instruct CBP that importers may no longer post a bond or other security in lieu of a cash deposit on imports of seamless refined copper pipe and tube from Mexico, manufactured and exported by Golden Dragon. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notifications to Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under the APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

We are issuing and publishing this new shipper review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 20, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Comment 1: Date of Sale
Comment 2: Adjustment to U.S. Price
Comment 3: Entitlement to New Shipper Review

[FR Doc. 2012–23686 Filed 9–25–12; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 12–1]

Telephonic Prehearing Conference Cancellation

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Cancellation of Telephonic prehearing conference.

SUMMARY: Cancellation of Telephonic prehearing conference on September 25, 2012, in the matter of Maxfield and Oberton Holdings, LLC, CPSC Docket 12–1.

FOR FURTHER INFORMATION CONTACT: Katy J.L. Duke, Esq., U.S. Coast Guard ALJ Program, 504/671–2213.

Dated: September 21, 2012.

Todd A. Stevenson,

Secretary.

[FR Doc. 2012–23664 Filed 9–25–12; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Withdrawal of Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report for the Ballona Creek Ecosystem Restoration Feasibility Study, Los Angeles County, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Los Angeles District of the U.S. Army Corps of Engineers (Corps) published a Notice of Intent to Prepare a Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Ballona Creek Ecosystem Restoration Feasibility Study in the **Federal Register** on September 20, 2005 (70 FR 55116). The study's purpose is to evaluate structural and non-structural means of restoring diminished ecosystem functions and services within the lower reach of Ballona Creek including coastal wetlands. Santa Monica Bay Restoration Commission (SMBRC) is the local sponsor for the cost-shared study.

On September 29, 2005, a public scoping meeting was held pursuant to requirements of the National Environmental Policy Act and Engineer Regulations 1105–2–100. Baseline conditions portions of the EIS/EIR have been completed as of January, 2012. On July 17, 2012, the SMBRC requested the Corps terminate the study. Therefore, the Corps is withdrawing the Notice of Intent to Prepare a draft EIS/EIR.

FOR FURTHER INFORMATION CONTACT: Ms. Jodi Clifford, Chief, Environmental Resources Branch. Mailing Address: Ms. Jodi Clifford, Chief, Environmental Resources Branch, Corps of Engineers, Los Angeles District, CESPL–PD–R, 915 Wilshire Boulevard, Los Angeles, CA 90017. Telephone: (213) 452–3840. Email: *Jodi.L.Clifford@usace.army.mil*.

SUPPLEMENTARY INFORMATION: The Corps is no longer pursing restoration within Ballona Creek as a cost-shared study within its Civil Works program. Although SMBRC requested the Corps terminate the feasibility study, SMBRC, acting on behalf of the California Department of Fish and Game, is moving forward with plans for ecosystem restoration within Ballona Creek. SMBRC must obtain permissions from the Corps to proceed with implementation of its restoration proposals. Therefore, the Corps is initiating an EIS pursuant to its authorities under Section 404 of the Clean Water Act, Section 10 of the 1899 Rivers and Harbors Act, and Title 33, U.S. Code, Section 408 for a project to be planned and carried out by SMBRC. To that end, the Corps published a Notice of Intent to Prepare an EIS in the **Federal Register** on July 25, 2012 (77 FR 43575). A scoping meeting was held on August 16, 2012. All technical studies and reports prepared under the Civil Works feasibility study authority will be utilized to the maximum practical extent in support of the EIS/EIR process now underway.

Dated: September 12, 2012.

R. Mark Toy,

Colonel, U.S. Army Commander and District Engineer.

[FR Doc. 2012–23669 Filed 9–25–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Notice of Intent To Prepare a Draft Environmental Impact Statement for a Proposed Aquatic Ecosystem Restoration Project for the Quiver River, MS

AGENCY: Department of Defense, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Vicksburg District, hereby gives notice of its intent to prepare a Draft Environmental Impact Statement (DEIS) assessing the reasonably foreseeable environmental impact of a proposal to restore the aquatic ecosystem of the Quiver River, a component of the Big Sunflower River watershed in the Mississippi Delta Region of northwest Mississippi. Aquatic ecosystem restoration is proposed as a means to ameliorate the condition of the Quiver River and of the Big Sunflower River watershed.

FOR FURTHER INFORMATION CONTACT: Questions or comments may be submitted to Mr. Brian LaBarre, U.S. Army Engineer District, Vicksburg, CEMVN–PDN–UDP, 4155 Clay Street, Vicksburg, MS 39183–3435; (601) 631–5437 (voice) or (601) 631–5115 (fax); *brian.e.labarre@usace.army.mil.*

SUPPLEMENTARY INFORMATION: *Proposed Action.* The Corps of Engineers, as per the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and NEPA regulations of the Council on Environmental Quality (40 CFR part 1500 *et seq.*) and Corps of Engineers (33 CFR part 230), proposes, in cooperation with the Yazoo-Mississippi Delta Joint Water Management District, as a non-Federal sponsor, to restore the aquatic ecosystem of the Quiver River, for wildlife habitat and related purposes.

Alternatives. The DEIS will identify and evaluate impacts associated with constructing and with operation and maintenance activity related to restoring the aquatic ecosystem of the Quiver River, examining structural and nonstructural alternatives to increase stream flow, improve water quality, and expand habitat.

Scoping Process. Public Involvement. Scoping is the method by which the Corps of Engineers involves the public, Federal, and state resource agencies; Indian tribes; and other interested parties in identifying the environmental issues to be examined and in establishing a range of alternatives to be evaluated. All are invited to participate in the scoping process by attending the public information meeting to be held October 24, 2012, by submitting comments on the proposed action or DEIS, or both.

Environmental Impact. A tentative list of resources and issues that may be evaluated in the DEIS includes aquatic resources, recreational and commercial fisheries, wildlife resources, water quality, air quality, threatened or endangered species, recreation resources, and cultural resources. Tentative socio-economic considerations that may be evaluated in the DEIS include business and industrial activity, tax revenue, population growth, community and regional development, transportation, housing, community cohesion, and navigation.

Scoping Meeting. A public information meeting will be held October 24, 2012, from 5 to 8:30 p.m., at the Mississippi Delta Community College Capps Technology Center, 920 HWY 82, West Indianola, MS 38751.

Estimated Date of Availability of a DEIS. September 2014.

Dated: September 18, 2012.

Barbara Petersen,

Acting Chief, Programs and Project Management Division.

[FR Doc. 2012–23670 Filed 9–25–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring, Surveillance and Remediation Committee and Waste Management Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). 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**.

DATES: Wednesday, October 17, 2012, 2 p.m.–4 p.m.

ADDRESSES: NNMCAB Conference Room, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring, Surveillance and Remediation Committee (EMS&R): The EMS&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EMS&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Tentative Agenda

1. Approval of Agenda
2. Approval of Minutes of September 12, 2012
3. Update from Executive Committee—Carlos Valdez
4. Update from DOE—Ed Worth, Deputy Designated Federal Officer
5. Election of Officers for Fiscal Year 2013
   - Election of Chair and Vice Chair for WM Committee
   - Election of Chair and Vice Chair for EMS&R Committee
6. 2:45 p.m. Presentation on Environmental Cleanup at Los Alamos National Laboratory
7. 3:45 p.m. Public Comment Period
8. 4 p.m. Adjourn

Public Participation: The NNMCAB's EMS&R and WM Committees welcome the attendance of the public at their combined committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be

received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/.*

Issued at Washington, DC, on September 19, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–23699 Filed 9–25–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Unconventional Resources Technology Advisory Committee

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Unconventional Resources Technology Advisory Committee. 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**.

DATES: Wednesday, October 24, 2012, 1 p.m.–5 p.m. (CDT) and Thursday, October 25, 2012, 8 a.m.–5 p.m. (CDT).

ADDRESSES: Hyatt North Houston, 425 North Sam Houston Parkway East, Houston, Texas 77060.

FOR FURTHER INFORMATION CONTACT: Elena Melchert, U.S. Department of Energy, Office of Oil and Natural Gas, 1000 Independence Avenue SW., Washington, DC 20585. Phone: (202) 586–5600.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The purpose of the Unconventional Resources Technology Advisory Committee is to provide advice on development and implementation of programs related to onshore unconventional natural gas and other petroleum resources to the Secretary of Energy; and provide comments and recommendations and priorities for the Department of Energy Annual Plan per requirements of the Energy Policy Act of 2005, Title IX, Subtitle J, Section 999D.

Tentative Agenda:

October 24, 2012

12:30 p.m. Registration
1 p.m. Welcome & Introductions, Opening Remarks, Discussion of Subcommittee Reports and Findings regarding the *Draft 2013 Annual Plan*
4:45 p.m. Public Comments, if any
5 p.m. Adjourn

October 25, 2012

7:30 a.m. Registration
8 a.m. Discussion of Subcommittee Recommendations regarding the *Draft 2013 Annual Plan* (continued)
Noon Break for Working Lunch
1 p.m. Discussion of Subcommittee Recommendations regarding the *Draft 2013 Annual Plan* (continued) Appoint Editing Committee
5 p.m. Adjourn.

Public Participation: The meeting is open to the public. The Designated Federal Officer and the Chairman of the Committee will lead the meeting for the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Elena Melchert at the telephone number listed above. You must make your request for an oral statement at least three business days prior to the meeting, and reasonable provisions will be made to include all who wish to speak. Public comment will follow the three minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at the following Web site: *http://www.fossil.energy.gov/programs/oilgas/advisorycommittees/UnconventionalResources.html.*

Issued at Washington, DC, on September 20, 2012.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–23700 Filed 9–25–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Ultra-Deepwater Advisory Committee

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Ultra-Deepwater Advisory Committee. 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**.

DATES: Tuesday, October 23, 2012, 8 a.m.–5 p.m. (CDT) and Wednesday, October 24, 2012, 8 a.m.–12 p.m. (CDT).

ADDRESSES: Hyatt North Houston, 425 North Sam Houston Parkway East, Houston, Texas 77060.

FOR FURTHER INFORMATION CONTACT: Elena Melchert, U.S. Department of Energy, Office of Oil and Natural Gas, 1000 Independence Avenue SW., Washington, DC 20585. Phone: (202) 586–5600.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The purpose of the Ultra-Deepwater Advisory Committee is to provide advice on development and implementation of programs related to ultra-deepwater architecture and technology to the Secretary of Energy and provide comments and recommendations and priorities for the Department of Energy Annual Plan per requirements of the Energy Policy Act of 2005, Title IX, Subtitle J, Section 999D.

Tentative Agenda:

October 23, 2012

7:30 a.m. Registration
8 a.m. Welcome & Introductions, Opening Remarks, Discussion of Subcommittee Reports and Findings regarding the *Draft 2013 Annual Plan*
Noon Break for Working Lunch
1 p.m. Discussion of Subcommittee Recommendations regarding the *Draft 2013 Annual Plan*
4:45 p.m. Public Comments, if any
5 p.m. Adjourn

October 24, 2012

7:30 a.m. Registration
8 a.m. Discussion of Subcommittee Recommendations regarding the *Draft 2013 Annual Plan* (continued)
Appoint Editing Subcommittee
12 p.m. Adjourn

Public Participation: The meeting is open to the public. The Designated Federal Officer and the Chairman of the Committee will lead the meeting for the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Elena Melchert at the telephone number listed above. You must make your request for an oral statement at least three business days prior to the meeting, and

reasonable provisions will be made to include all who wish to speak. Public comment will follow the three minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at the following Web site: *http://www.fossil.energy.gov/programs/oilgas/advisorycommittees/UltraDeepwater.html.*

Issued at Washington, DC on September 20, 2012.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–23701 Filed 9–25–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–521–000]

Jo-Carroll Energy, Inc.; Notice of Application

Take notice that on September 12, 2012, Jo-Carroll Energy, Inc. (NFP) (JCE) 793 U.S. Route 20 West, Elizabeth, Illinois 61028, filed in Docket No. CP12–521–000, an application pursuant to section 7(f) of the Natural Gas Act (NGA), as amended, requesting to amend its present service area determination [1] within which JCE may, without further Commission authorization, enlarge or expand its natural gas distribution facilities. JCE also requests for a continuation of the: (i) Waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and the NGPA; (ii) pregranted abandonment of this service; and (iii) such further relief the Commission may deem appropriate, all as more fully set forth in the application, which is on file with the Commission and open to the public for inspection. The filing may also be viewed on the 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.

JCE proposes to retroactively acquire 1.3 miles of 8-inch diameter pipeline from Northern Natural Gas Company (Northern) and a related pressure regulating station that would extend the 3,800 feet of 8-inch diameter pipeline that is presently included in the Jackson County, Iowa, portion of JCE's prior service area determination. JCE states that it acquired the facilities from Northern on January 30, 2012, because the Iowa Utility Board (IUB) requested that JCE install new odorization equipment on its existing facilities to comply with IUB pipeline safety regulations. JCE also states that prior to January 30, 2012, the ownership demarcation point between Northern and JCE was in the middle of the Mississippi River, making JCE's facilities inaccessible for installing the required odorization equipment. JCE further states that its acquisition of the new facilities would not increase JCE's ability to serve customers either inside or outside of its present service area determination. Finally, JCE asserts that the sole reason it seeks to amend its service area determination is that the newly acquired facilities appear to fall outside of the very limited service area determination in Iowa that the Commission previously authorized in 2006.

Any questions regarding this application should be directed to Michael Hastings, Jo-Carroll Energy, Inc. (NFP), 793 U.S. Route 20 West, Elizabeth, Illinois 61028, or via telephone at (815) 858–2207 or email: *mhastings@jocarroll.com*, or Joshua L. Menter, Miller, Balis & O'Neil, P.C., 1015 15th Street NW., Washington, DC 20005, or via telephone at (202) 296–2960 or email: *jmenter@mbolaw.com.*

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 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. 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.

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 commenters 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 commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: 5:00 p.m. Eastern Time on October 10, 2012.

Dated: September 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23618 Filed 9–25–12; 8:45 am]

BILLING CODE 6717–01–P

[1] *Jo-Carroll Energy, Inc. (NFP),* 117 FERC ¶ 62,265 (2006).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–1043–000.

Applicants: CenterPoint Energy—Mississippi River T.

Description: 2012 Fuel Adjustment Filing to be effective 11/1/2012.
Filed Date: 9/18/12.
Accession Number: 20120918–5050.
Comments Due: 5 p.m. e.t. 10/1/12.

Docket Numbers: RP12–1044–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Tenaska Gas Negotiated Rate to be effective 9/18/2012.
Filed Date: 9/18/12.
Accession Number: 20120918–5052.
Comments Due: 5 p.m. e.t. 10/1/12.

Docket Numbers: RP12–1045–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Devon 34694–41 Amendment to Neg Rate Agmt to be effective 9/15/2012.
Filed Date: 9/18/12.
Accession Number: 20120918–5056.
Comments Due: 5 p.m. e.t. 10/1/12.

Docket Numbers: RP12–1046–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Enterprise K12–9 Amendment to Neg Rate Agmt to be effective 9/15/2012.
Filed Date: 9/18/12.
Accession Number: 20120918–5058.
Comments Due: 5 p.m. e.t. 10/1/12.

Docket Numbers: RP12–1048–000.
Applicants: Viking Gas Transmission Company.
Description: Conforming Backhaul Agreements.
Filed Date: 9/18/12.
Accession Number: 20120918–5113.
Comments Due: 5 p.m. e.t. 10/1/12.

Docket Numbers: RP12–1049–000.
Applicants: Equitrans, L.P.
Description: Capacity Release Updates to be effective 11/1/2012
Filed Date: 9/19/12.
Accession Number: 20120919–5014.
Comments Due: 5 p.m. e.t. 10/1/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

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

Dated September 19, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary

[FR Doc. 2012–23646 Filed 9–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–103–000]

J.P. Morgan Ventures Energy Corporation; Notice of Initiation of Proceeding and Refund Effective Date

On September 20, 2012, the Commission issued an order that initiated a proceeding in Docket No. EL12–103–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2006), to determine whether several statements by J.P. Morgan Ventures Energy Corporation constitute violations of section 35.41(b) of the Commission's regulations under the Federal Power Act (FPA).[1] *J.P. Morgan Ventures Energy Corporation,* 140 FERC ¶ 61,227 (2012).

The refund effective date in Docket No. EL12–103–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**. In addition, answers, comments and interventions must be filed within 21 days of publication of this notice in the **Federal Register**.

Dated: September 21, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23661 Filed 9–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR12–27–000]

Enbridge Pipelines (Southern Lights) LLC; Notice of Petition for Declaratory Order

Take notice that on September 17, 2012, pursuant to Rule 207(a)(2) of the Commission's Rules of Practices and Procedure, 18 CFR 385.207(a)(2)(2012), Enbridge Pipelines (Southern Lights) LLC, filed a petition seeking a declaratory order confirming the validity of the contractual right of first offer for committed capacity on the Southern Lights Pipeline, as set forth in Section 6.06 of the Southern Lights Transportation Service Agreement.

Any person desiring to intervene or to protest in this proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on Friday, October 12, 2012.

Dated: September 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23617 Filed 9–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives

[1] 18 CFR 35.41(b) (2012).

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

2012 Southeastern Regional Transmission Planning Process (SERTP) 3rd Quarter Meeting—Second Regional Planning Stakeholders' Group Meeting

September 26, 2012, 9:00 a.m.–2:00 p.m., Local Time.

The above-referenced meeting will be held at: Alabama Power Company Corporate Headquarters, Room 4G, Birmingham, Alabama.

The above-referenced meeting is open to stakeholders.

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

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

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

Docket No. ER12–2521, *Louisville Gas and Electric Company and Kentucky Utilities Company*

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

Dated: September 19, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23619 Filed 9–25–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9734–3]

Notice of Administrative Settlement Agreement for Recovery of Past Response Costs Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), notice is hereby given that a proposed administrative settlement agreement for recovery of past response costs (''Proposed Agreement'') associated with the Browning Lumber Company Superfund Site, Boone County, West Virginia was executed by the Environmental Protection Agency (''EPA'') and is now subject to public comment, after which EPA may modify or withdraw its consent if comments received disclose facts or considerations that indicate that the Proposed Agreement is inappropriate, improper, or inadequate. The Proposed Agreement would resolve potential EPA claims under Section 107(a) of CERCLA, against Stephen C. Browning (''Settling Party''). The Proposed Agreement would require Settling Party to reimburse EPA $23,000.00 for past response costs incurred by EPA for the Site.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Proposed Agreement. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on or before thirty (30) days after the date of publication of this notice.

ADDRESSES: The Proposed Agreement and additional background information relating to the Proposed Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Proposed Agreement may be obtained from Robert S. Hasson (3RC41), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the ''Browning Lumber Company Superfund Site, Proposed Administrative Settlement Agreement for Recovery of Past Response Costs'' and ''EPA Docket No. CERCLA–03–2012–0242CR,'' and should be forwarded to Robert S. Hasson at the above address.

FOR FURTHER INFORMATION CONTACT: Robert S. Hasson (3RC41), U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2672; *hasson.robert@epa.gov.*

Dated: September 13, 2012.

Ronald Borsellino,

Director, Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III.

[FR Doc. 2012–23693 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9734–9]

Gulf of Mexico Citizen Advisory Committee; Notice of Charter Renewal

AGENCY: Environmental Protection Agency.

ACTION: Notice of charter renewal.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has determined that in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2, the Gulf of Mexico Citizen Advisory Committee (GMCAC) is a necessary committee which is in the public interest. Accordingly, the GMCAC is renewed for an additional two year period. The purpose of the GMCAC is to provide advice and recommendations to the Administrator of EPA on issues associated with plans to improve and protect the water quality and living resources of the Gulf of Mexico.

FOR FURTHER INFORMATION CONTACT: LaKeshia Robertson, Designated Federal Officer, Gulf of Mexico Program Office (Mail Code: EPA/GMPO), Stennis Space Center, MS 39529, Telephone (228) 688–1712, or *robertson.lakeshia@epa.gov.*

Dated: September 18, 2012.

Nancy K. Stoner,

Acting Assistant Administrator, Office of Water.

[FR Doc. 2012–23703 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9730–6]

National Environmental Justice Advisory Council; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Charter Renewal.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the National Environmental Justice Advisory Council (NEJAC) is a necessary committee which is in the public interest. Accordingly, NEJAC will be renewed for an additional two-year period. The purpose of the NEJAC is to provide advice and recommendations to the Administrator

about issues associated with integrating environmental justice concerns into EPA's outreach activities, public policies, and decision about science, regulatory, enforcement, and compliance issues related to environmental justice. Inquiries may be directed to Victoria Robinson, NEJAC Designated Federal Officer, U.S. EPA, 1200 Pennsylvania Avenue NW., (Mail Code 2201A), Washington, DC 20460.

Dated: July 13, 2012.

Cynthia Giles,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 2012–23588 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Petition IV–2011–1; FRL–9734–2]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Tennessee Valley Authority's Shawnee Fossil Plant; McCracken County, KY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act (CAA) Section 505(b)(2), the EPA Administrator signed an Order, dated August 31, 2012, denying a petition to object to a CAA title V operating permit issued by the Kentucky Division for Air Quality (KDAQ) to Tennessee Valley Authority for its Shawnee Fossil Plant (SFP) facility located in West Paducah, Kentucky. This Order constitutes a final action on the petition dated February 28, 2011, and submitted by the Environmental Integrity Project and the Southern Alliance for Clean Energy (Petitioners). Pursuant to sections 307(b) and 505(b)(2) of the CAA, a petition for judicial review of those parts of the Order that deny the petition may be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this notice is published in the **Federal Register**.

ADDRESSES: Copies of the Order, the petition, and information relating thereto are on file at the following location: EPA Region 4; Air, Pesticides and Toxics Management Division; 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The Order is also available electronically at the following address: *http://www.epa.gov/region07/air/title5/petitiondb/petitions/shawnee_response2011.pdf.*

FOR FURTHER INFORMATION CONTACT: James Purvis, Air Permits Section, EPA Region 4, at (404) 562–9139 or *purvis.james@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords the EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state permitting authorities under title V of the CAA, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of the EPA's 45-day review period if the EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Petitioners submitted a petition regarding SFP (received by the EPA on March 1, 2011), requesting that the EPA object to the CAA title V operating permit (#V–09–002 R1). Petitioners alleged that the permit was not consistent with the CAA for four primary reasons described in the petition. On August 31, 2012, the Administrator issued an Order denying the petition. In summary, the Petition was denied because the EPA interprets its regulations to limit the scope of petitions to object on permit revisions resulting from reopening for cause. The scope of petitions to object is limited to issues related to the parts of the permit for which the permitting authority has determined that cause to reopen exists. Because the Petitioners' objections apply to parts of the Shawnee Permit that are beyond the scope of the reopening for cause resulting in Permit Revision 1, the EPA is denying the Petition. The Order further explains the EPA's rationale for denying the petition.

Dated: September 17, 2012.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 2012–23690 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0390; FRL–9364–1]

Notice of Receipt of Pesticide Products; Registration Applications To Register New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register new uses for pesticide products containing currently registered active ingredients pursuant to the provisions of section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This notice provides the public with an opportunity to comment on the applications.

DATES: Comments must be received on or before October 26, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the EPA Registration Number or EPA File Symbol of interest as shown in the body of this document, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: A contact person is listed at the end of each registration application summary and may be contacted by telephone, email, or mail. Mail correspondence to the Antimicrobials Division (AD) (7510P) or Registration Division (RD) (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under the Agency's public participation process for registration actions, there will be an additional opportunity for a 30-day public comment period on the proposed decision. Please see the Agency's public participation Web site for additional information on this process *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html.* EPA received the following applications to register new uses for pesticide products containing currently registered active ingredients:

1. *EPA Registration Number:* 100–542. *Docket ID Number:* EPA–HQ–OPP–2012–0590. *Applicant:* Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 27419–8300. *Active ingredient:* Prometryn. *Product Type:* Herbicide. *Proposed Uses:* Dill and snap beans. Contact: Mindy Ondish, RD, (703) 605–0723, email address: *ondish.mindy@epa.gov.*

2. *EPA Registration Number:* 100–993. *Docket ID Number:* EPA–HQ–OPP–2012–0589. *Applicant:* Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 27419–8300. *Active ingredient:* Fomesafen. *Product Type:* Herbicide. *Proposed Use:* Vegetable soybean (edamame). Contact: Michael Walsh, RD, (703) 308–2972, email address: *walsh.michael@epa.gov.*

3. *EPA Registration Number*s: 100–1017 and 100–1103. *Docket ID Number:* EPA–HQ–OPP–2012–0589. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–8300. *Active ingredient:* Fomesafen. *Product Type:* Herbicide. *Proposed Use:* For formulation into an herbicide for use on cantaloupe, cucumber, pea (succulent), pumpkin, squash (Summer and Winter), watermelon, and vegetable soybean (edamame). Contact: Michael Walsh, RD, (703) 308–2972, email address: *walsh.michael@epa.gov.*

4. *EPA Registration Number:* 100–1374. *Docket ID Number:* EPA–HQ–OPP–2012–0704. *Applicant:* Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 27419–8300. *Active ingredient:* Sedaxane. *Product Type:* Fungicide. *Proposed Uses:* Seed treatment use on corn, popcorn, sorghum, pea and bean (dried shelled), and rapeseed. Contact: Heather Garvie, RD, (703) 308–0034, email address: *garvie.heather@epa.gov.*

5. *EPA Registration Number:* 100–1381. *Docket ID Number:* EPA–HQ–OPP–2012–0704. *Applicant:* Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 27419–8300. *Active ingredient:* Sedaxane. *Product Type:* Fungicide. *Proposed Use:* For formulation into a fungicide for use as a seed treatment for use on corn, popcorn, sorghum, pea and bean (dried shelled), and rapeseed. Contact: Heather Garvie, RD, (703) 308–0034, email address: *garvie.heather@epa.gov.*

6. *EPA Registration Number:* 264–666. *Docket ID Number:* EPA–HQ–OPP–2012–0588. *Applicant:* Bayer CropScience, LP., 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. *Active ingredient:* Fenoxaprop-p-ethyl. *Product Type:* Herbicide. *Proposed Uses:* Post-emergence annual and perennial grass control in perennial ryegrass, tall fescue, and certain cultivars of annual ryegrass grown seed in Oregon, Utah, and Washington. Contact: Grant Rowland, RD, (703) 347–0254, email address: *rowland.grant@epa.gov.*

7. *EPA Registration Numbers:* 352–728, 352–729, 352–730, and 352–844. *Docket ID Number:* EPA–HQ–OPP–2012–0635. *Applicant:* DuPont Crop Protection, Stine-Haskell Research Center, P.O. Box 30, Newark, DE 19714. *Active ingredient:* Chlorantraniliprole. *Product Type:* Insecticide. *Proposed Uses:* Cereal grain group 15, except rice; forage, fodder; straw of cereal grain group 16; pome fruit group 11–10; and citrus fruit group 10–10. Contact: Jennifer Urbanski, RD, (703) 347–0156, email address: *urbanski.jennifer@epa.gov.*

8. *EPA File Symbol:* 6836–GLE. *Docket ID Number:* EPA–HQ–OPP–2012–0625. *Applicant:* Lonza, Inc., 90 Boroline Road, Allendale, NJ 07401. *Active ingredient:* 1-Bromo-3-chloro-5,5-dimethylhydantoin at 97.7%. *Product Type:* Disinfectant. *Proposed Use:* Drinking Water. Contact: Jaclyn Carl, AD, (703) 347–0213, email address: *carl.jaclyn@epa.gov.*

9. *EPA Registration Number:* 7969–257. *Docket ID Number:* EPA–HQ–OPP–2012–0508. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. *Active ingredient:* Triticonazole. *Product Type:* Fungicide. *Proposed Uses:* Outdoor and

greenhouse ornamentals. Contact: Shaunta Hill, RD, (703) 347–8961, email address: *hill.shaunta@epa.gov.*

10. *EPA Registration Number:* 10163–209. *Docket ID Number: Docket ID Number:* EPA–HQ–OPP–2012–0357. *Applicant:* Gowan Company, 370 South Main Street, Yuma, AZ 85364. *Active ingredient:* Hexythiazox. *Product Type:* Insecticide. *Proposed Use:* For formulation into an insecticide for use on pepper and eggplant. Contact: Olga Odiott, RD, (703) 308–9369, email address: *odiott.olga@epa.gov.*

11. *EPA Registration Numbers:* 10163–250, 10163–251, and 10163–277. *Docket ID Number:* EPA–HQ–OPP–2012–0357. *Applicant:* Gowan Company, 370 South Main Street, Yuma, AZ 85364. *Active ingredient:* Hexythiazox. *Product Type:* Insecticide. *Proposed Uses:* Pepper and eggplant. Contact: Olga Odiott, RD, (703) 308–9369, email address: *odiott.olga@epa.gov.*

12. *EPA Registration Number:* 10163–277. *Docket ID Number:* EPA–HQ–OPP–2012–0623. *Applicant:* Gowan Company, 370 South Main Street, Yuma, AZ 85364. *Active ingredient:* Hexythiazox. *Product Type:* Insecticide. *Proposed Use:* Sorghum. Contact: Olga Odiott, RD, (703) 308–9369, email address: *odiott.olga@epa.gov.*

13. *EPA File Symbol:* 53883–GRE. *Docket ID Number:* EPA–HQ–OPP–2012–0627. *Applicant:* Control Solutions, Inc., 5903 Genoa Red Bluff, Pasadena, TX 77507. *Active ingredient:* Novaluron. *Product Type:* Insecticide. *Proposed Use:* Pet Spot treatment for Dogs. Contact: Autumn Metzger, RD, (703) 305–5314, email address: *metzger.autumn@epa.gov.*

14. *EPA File Symbol:* 59639–RTO. *Docket ID Number:* EPA–HQ–OPP–2011–0357. *Applicant:* Valent U.S.A. Corporation, P.O. Box 8025, Walnut Creek, CA 94596. *Active ingredient:* Fenpyrazamine. *Product Type:* Fungicide. *Proposed Uses:* Bushberry (subgroup 13–07B), caneberry (subgroup 13–07A), ginseng, and pistachio. Contact: Gene Benbow, RD, (703) 347–0235, email address: *benbow.gene@epa.gov.*

15. *EPA Registration Numbers:* 59639–150 and 59639–152. *Docket ID Number:* EPA–HQ–OPP–2010–0217. *Applicant:* Valent U.S.A. Corporation, P.O. Box 8025, Walnut Creek, CA 94596. *Active ingredient:* Clothianidin. *Product Type:* Insecticide. *Proposed Uses:* To amend an existing tolerance for crop subgroup 8–10B to 0.7 ppm. Contact: Marianne Lewis, RD, (703) 308–8043, email address: *lewis.marianne@epa.gov.*

16. *EPA Registration Number:* 59639–173. *Docket ID Number:* EPA–HQ–OPP–2010–0217. *Applicant:* Valent U.S.A. Corporation, P.O. Box 8025, Walnut Creek, CA 94596. *Active ingredient:* Clothianidin. *Product Type:* Insecticide. *Proposed Uses:* Expansion of crop groupings to receive the new fruiting vegetable crop group 8–10 and pome fruits crop group 11–10. Contact: Marianne Lewis, RD, (703) 308–8043, email address: *lewis.marianne@epa.gov.*

17. *EPA Registration Number:* 62719–416. *Docket ID Number:* EPA–HQ–OPP–2012–0520. *Applicant:* Dow AgroSciences LLC., 9330 Zionsville Road, Indianapolis, IN 46268. *Active ingredient:* Fenbuconazole. *Product Type:* Fungicide. *Proposed Use:* Pepper. Contact: Erin Malone, RD, (703) 347–0253, email address: *malone.erin@epa.gov.*

18. *EPA Registration Numbers:* 81880–2, 81880–15, and 81880–18. *Docket ID Number:* EPA–HQ–OPP–2012–0586. *Applicant:* Canyon Group LLC., c/o Gowan Company, 370 South Main St., Yuma, AZ 85364. *Active ingredient:* Halosulfuron-methyl. *Product Type:* Herbicide. *Proposed Uses:* Caneberry (subgroup 13–07A) and artichoke. Contact: Maggie Rudick, RD, (703) 347–0257, email address: *rudick.maggie@epa.gov.*

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 19, 2012.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2012–23736 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0736; FRL–9362–2]

Registration Review; Pesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is opening the public comment period for several registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document announces the Agency's intent not to open a registration review docket for bitertanol (case #8007), tridemorph (case #8009), and bethoxazin (case #5110). These pesticides do not currently have any actively registered pesticide products and are not, therefore, scheduled for review under the registration review program.

DATES: Comments must be received on or before November 26, 2012.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

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

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information contact: The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; email address: *costello.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a

wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the Agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration review case name and No.	Docket ID No.	Chemical review manager, telephone number, email address
Acetamiprid (Case #7617)	EPA–HQ–OPP–2012–0329	Jill Bloom, (703) 308–8019, *bloom.jill@epa.gov.*
Diflubenzuron (Case #144)	EPA–HQ–OPP–2012–0714	Steven Snyderman, (703) 347–0249, *snyderman.steven@epa.gov.*
Halofenozide (Case #7425)	EPA–HQ–OPP–2012–0231	Kaitlin Keller, (703) 308–8172, *keller.kaitlin@epa.gov.*
Metribuzin (Case #181)	EPA–HQ–OPP–2012–0487	Dana Friedman, (703) 347–8827, *friedman.dana@epa.gov.*
Norflurazon (Case #229)	EPA–HQ–OPP–2012–0565	Khue Nguyen, (703) 347–0248, *nguyen.khue@epa.gov.*
Pendimethalin (Case #187)	EPA–HQ–OPP–2012–0219	Khue Nguyen, (703) 347–0248, *nguyen.khue@epa.gov.*
Rimsulfuron (Case #7218)	EPA–HQ–OPP–2012–0178	Jose Gayoso, (703) 347–8652, *gayoso.jose@epa.gov.*
Tefluthrin (Case #7409)	EPA–HQ–OPP–2012–0501	Molly Clayton, (703) 603–0552, *clayton.molly@epa.gov.*
Thiacloprid (Case #7622)	EPA–HQ–OPP–2012–0218	Wilhelmena Livingston, (703) 308–8025, *livingston.wilhelmena@epa.gov.*
Triflusulfuron (Case #7236)	EPA–HQ–OPP–2012–0605	Andrea Mojica, (703) 308–0122, *mojica.andrea@epa.gov.*
4-t-Amylphenol, and salts (Case #3016).	EPA–HQ–OPP–2012–0682	Seiichi Murasaki, (703) 347–0163, *murasaki.seiichi@epa.gov.*
Ammonium bromide (Case #5002)	EPA–HQ–OPP–2012–0683	Rebecca von dem Hagen, (703) 305–6785, *vondem-hagen.rebecca@epa.gov.*
Didecyl dimethyl ammonium carbonate and didecyl dimethyl ammonium bicarbonate (Case #5014).	EPA–HQ–OPP–2012–0651	Wanda Henson, (703) 308–6345, *henson.wanda@epa.gov.*
Ammonium sulfate (Case #5073)	EPA–HQ–OPP–2012–0684	Rebecca von dem Hagen, (703) 305–6785, *vondem-hagen.rebecca@epa.gov.*

TABLE—REGISTRATION REVIEW DOCKETS OPENING—Continued

Registration review case name and No.	Docket ID No.	Chemical review manager, telephone number, email address
Ammonia (Case #7440)	EPA–HQ–OPP–2012–0684	Rebecca von dem Hagen, (703) 305–6785, *vondem-hagen.rebecca@epa.gov.*
1,4 DMN (Case #6029)	EPA–HQ–OPP–2012–0670	Colin Walsh, (703) 308–0298, *walsh.colin@epa.gov.*
Cytokinins (Case #4107)	EPA–HQ–OPP–2012–0671	Cheryl Greene, (703) 308–0352, *greene.cheryl@epa.gov.*
Phosphoric acid and salts (Case #6072).	EPA–HQ–OPP–2012–0672	Menyon Adams, (703) 347–8496, *adams.menyon@epa.gov.*
Harpin Proteins (Case #6010)	EPA–HQ–OPP–2012–0641	Jeannine Kausch, (703) 347–8920, *kausch.jeannine@epa.gov.*

EPA is also announcing that it will not be opening dockets for bitertanol (case #8007), tridemorph (case #8009), and bethoxazin (case #5110) because these pesticides are not included in any products actively registered under FIFRA section 3. The Agency will take separate actions to cancel any remaining FIFRA section 24(c) Special Local Needs registrations with these active ingredients and to propose revocation of any affected tolerances that are not supported for import purposes only.

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's Web site at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.* Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review.*

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 14, 2012.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2012–23520 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0748; FRL–9362–9]

Halofenozide; Notice of Receipt of Requests To Voluntarily Cancel Pesticide Registrations and Terminate All Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of request by registrants to voluntarily cancel pesticide registrations of all products containing the pesticide halofenozide. The requests would cancel all technical and end-use registrations and delete all halofenozide uses. The requests would terminate the last halofenozide products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Unless a request is withdrawn by October 26, 2012 for registrations for which the registrant requested a waiver of the 180–day comment period, orders will be issued canceling these registrations. The Agency will consider withdrawal requests postmarked no later than October 26, 2012, whichever

is applicable. Comments must be received on or before October 26, 2012, for those registrations where the 180-day comment period has been waived.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2012–0748, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Kaitlin Keller, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8172; email address: *keller.kaitlin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the Agency taking?

This notice announces receipt by the Agency of applications from registrants to cancel all 10 halofenozide pesticide products registered under FIFRA section 3 or 24(c). Halofenozide is an ecdysone agonist insecticide that induces a premature and incomplete molt in susceptible species. Halofenozide is registered for use against immature stages of beetle pests (soil dwelling ''white grubs''). Halofenozide is registered for use on non-agricultural uses sites, including airports/landing fields, commercial/industrial lawns, golf course turf, ornamental lawns and turf, ornamental sod farm, recreation area lawns, and residential lawns. There are no registered food or agricultural uses. In a letter dated June 25, 2012, the technical registrant, Dow AgroSciences, requested EPA to cancel certain pesticide product registrations identified in Table 1 of this unit. Specifically, Dow AgroSciences requested cancellation of its nine halofenozide product registrations because they no longer manufacture or produce halofenozide products. On August 6, 2012, the other end-use registrant, Setre Chemical Company, also requested cancellation of its halofenozide end-use product. This action on the registrants' requests will terminate the last halofenozide pesticide products registered in the United States. These registrations are listed in sequence by registration number in Table 1 of this unit:

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Chemical name
038167–0029	Mach 2 1.5G	Helena Chemical Company d/b/a Setre Chemical Company.
062719–0470	Halofenozide Technical Insecticide	Dow AgroSciences LLC.
062719–0471	Mach 2 2SC	Dow AgroSciences LLC.
062719–0472	Mach 2 2.5% Granular Turf Insecticide	Dow AgroSciences LLC.
062719–0473	Mach 2 1.5G Specialty Insecticide	Dow AgroSciences LLC.
062719–0474	Mach 2 Plus Fertilizer 0.86% A.I.	Dow AgroSciences LLC.
062719–0475	Mach 2 Plus Fertilizer 0.57% A.I.	Dow AgroSciences LLC.
062719–0476	Mach 2 Manufacturing Use Concentrate	Dow AgroSciences LLC.
062719–0489	Mach 2 Plus Fertilizer (1.0% A.I.)	Dow AgroSciences LLC.
062719–0490	Mach 2 Plus Fertilizer (1.33% A.I.)	Dow AgroSciences LLC.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 30-day period.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
38167	Helena Chemical Company, d/b/a Setre Chemical Company, 225 Schilling Blvd., Suite 300, Collierville, TN 38017.
62719	Dow AgroSciences LLC, 9330 Zionsville Rd., 308/2E, Indianapolis, IN 46268–1054.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the EPA Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before October 26, 2012. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. EPA's existing stocks policy published in the **Federal Register** issue of June 26, 1991 (56 FR 29362) provides that: ''If a registrant requests to voluntarily cancel a registration where the Agency has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration, and data call ins, and the registration is not subject to a Registration Standard, Label Improvement Program, or reregistration decision, the Agency will generally permit a registrant to sell or distribute existing stocks for 1 year after the cancellation request was received. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted.''

Upon cancellation of the pesticides identified in Table 1 of Unit II., EPA anticipates allowing sale, distribution and use as described in this unit. Exception to this general policy will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 14, 2012.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2012–23517 Filed 9–25–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Registration of Mortgage Loan Originators

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). On July 24, 2012 (77 FR 43283), the FDIC solicited public comment for a 60-day period on renewal of the following information collection: Registration of Mortgage Loan Originators (OMB No. 3064–0171). No comments were received. Therefore, the FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before October 26, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Registration of Mortgage Loan Originators.

OMB Number: 3064–0171.

Total Estimated Annual Burden: 608,867 with a breakdown as follows—

A. Financial Institution Policies and Procedures for Ensuring Employee-Mortgage Loan Originator Compliance With S.A.F.E. Act Requirements

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 20 hours.

Estimated Annual Burden: 81,600 hours.

B. Financial Institution Procedures to Track and Monitor Compliance With S.A.F.E. Act Compliance

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 60 hours.

Estimated Annual Burden: 244,800 hours.

C. Financial Institution Procedures for the Collection and Maintenance of Employee Mortgage Loan Originators Criminal History Background Reports

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 20 hours.

Estimated Annual Burden: 81,600 hours.

D. Financial Institution Procedures for Public Disclosure of Mortgage Loan Originator's Unique Identifier

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 25 hours.

Estimated Annual Burden: 102,000 hours.

E. Financial Institution Information Reporting to Registry

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 15 minutes.

Estimated Annual Burden: 1,020 hours.

F. Financial Institution Procedures for the Collection of Employee Mortgage Loan Originator's Fingerprints

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 4 hours.

Estimated Annual Burden: 16,320 hours.

G. Mortgage Loan Originator Initial and Annual Renewal Registration Reporting and Authorization Requirements

Affected Public: Employee Mortgage Loan Originators.

Estimated Number of Respondents: 59,292.

Frequency of Response: Annually.

Estimated Time per Response: 15 minutes.

Estimated Annual Burden: 14,823 hours.

H. Mortgage Loan Originator Registration Updates Upon Change in Circumstances

Affected Public: Employee Mortgage Loan Originators.

Estimated Number of Respondents: 29,646.

Frequency of Response: On occasion.

Estimated Time per Response: 15 minutes.

Estimated Annual Burden: 7,412 hours.

I. Mortgage Loan Originator Procedures for Disclosure to Consumers of Unique Identifier

Affected Public: Employee Mortgage Loan Originators.

Estimated Number of Respondents: 59,292.

Frequency of Response: Annually.

Estimated Time per Response: 1 hour.

Estimated Annual Burden: 59,292 hours.

Request for Comment

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 21 day of September 2012.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2012–23652 Filed 9–25–12; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012159–001.

Title: Maersk Line/New World Alliance Slot Exchange Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line; American President Lines, Ltd.; APL Co. Pte, Ltd.; Hyundai Merchant Marine Co., Ltd.; and Mitsui O.S.K. Lines, Ltd. (''MOL'').

Filing Party: David F. Smith, Esquire; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment authorizes an additional slot sale among the parties.

By Order of the Federal Maritime Commission.

Dated: September 21, 2012.

Rachel Dickon,

Assistant Secretary.

[FR Doc. 2012–23702 Filed 9–25–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 40901 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

AB Group Shipping Corp (NVO & OFF), 6848 NW 77th Court, Miami, FL 33166, Officers: Marcela A. Prado,

President (QI), Sebastian A. Perez, Vice President, Application Type: Add NVO Service.

Allmia International Corporation (OFF), 10301 NW 108th Avenue, Suite 2, Medley, FL 33178, Officer: Rebeca Carroll, President (QI), Application Type: New OFF License.

Automobile Export Loaders of America, Inc (OFF), 8730 NW 36th Avenue, Suite A, Miami, FL 33147, Officers: Angela M. Rivera, President (QI), Howard Helfer, Vice President, Application Type: New OFF License.

Bring Logistics US, Inc. (NVO & OFF), 4500 N. Sam Houston Parkway W., #130, Houston, TX 77086, Officers: Breanna G. Morgan, Assistant Secretary (QI), Steinar Wilk, US Director, Application Type: QI Change.

Central Oceans USA LLC (NVO & OFF), 1910 Abbott Street, #202, Charlotte, NC 28203, Officers: Joseph C. Toe, Managing Director (QI), Thomson L. Silvers, Director, Operations, Application Type: New NVO & OFF License.

Contract Logistics, LLC (NVO & OFF), 4911 N. Portland Avenue, Suite 200, Oklahoma City, OK 73112, Officers: Thomas W. Young, Vice President Ocean Transportation (QI), Gregory P. Roush, Manager, Application Type: New NVO & OFF License.

Crescent Line Inc. dba Globe Express Services (NVO & OFF), 535 Regal Row, Dallas, TX 75247, Officers: Lee M. Davis, Vice President (QI), Ali Charanck, President, Application Type: QI Change.

CTS Global Logistics (Georgia) Inc. dba CTS Global Supply Chain Solutions (NVO & OFF), 5192 Southridge Parkway, Suite 117, Atlanta, GA 30349, Officers: Stephen N. Arra, Vice President (QI), Xian-Zhong (David) Cai, President, Application Type: QI Change.

DCI Transport LLC (OFF), 2270 Pendley Road, #113, Cumming, GA 30041, Officers: Christie Patterson, Manager (QI), Christopher W. Purdy, Chief Executive Manager, Application Type: New OFF License.

Dynasty CHB, Inc. (NVO & OFF), 365 Chelsea Street, East Boston, MA 02128, Officers: Dawn Lowry, President (QI), Patrick Lee, Director, Application Type: Name Change to Dynasty International, Inc.

JJB Trucking Services & Shipping LLC (NVO & OFF), 339 Market Street, Paterson, NJ 07524, Officers: Bertha C. Triminio, Partner (QI), Julio C. Madrid, Partner, Application Type: New NVO & OFF License.

Hydra Logistics, Inc. dba Globe Express Services (NVO & OFF), 14205 Westfair West Drive, Houston, TX 77041, Officers: Lee M. Davis, President (QI), Sarah Namani, Secretary, Application Type: QI Change.

I.T.N. Consolidators, Inc. dba International Transportation Network (NVO), 3401–C NW. 72nd Avenue, Miami, FL 33122, Officers: Daniel L. Grimes, Chief Operating Officer (QI), John R. Nash, Chief Financial Officer, Application Type: QI Change.

I.T.N. of Miami, Inc. (NVO), 3401–C NW. 72nd Avenue, Miami, FL 33122, Officers: Daniel L. Grimes, Chief Operating Officer (QI), John R. Nash, Chief Financial Officer, Application Type: QI Change & Add Trade Name, ITN Worldwide.

IP Logistics, Inc. (NVO), 968 West 10th Street, Azusa, CA 91702, Officers: Kenny Yip, Vice President (QI), Amelia Louie, President, Application Type: New NVO License.

ISI Express (N.Y.) Inc. (NVO), 177–17 150th Avenue, Suite 202, Jamaica, NY 11434, Officer: Gin Choo Lim Yuen, President (QI), Application Type: QI Change.

M. V. P. International Freight Systems, Inc. (NVO & OFF), 8012 NW 29th Street, Suite 201, Miami, FL 33122, Officers: Jorge M. Palacios, Secretary (QI), Alexandra R. Palacios, President, Application Type: New NVO & OFF License.

Madkem Logistics Inc. (NVO & OFF), 355 Jefferson Avenue, Ground Floor, Brooklyn, NY 11221, Officers: Thomas Salako, Vice President (QI), Ade Ranti, President, Application Type: New NVO & OFF License.

MTS Transportation, Inc. (NVO), 8054 E. Garvey Avenue, Rosemead, CA 91770, Officers: Roger Wu, President (QI), Sandy Wu, Treasurer, Application Type: QI Change.

Quasar Logistics Inc (NVO & OFF), 18460 Jamaica Avenue, Hollis, NY 11423, Officers: Rene Madrazo, Chief Logistics Officer (QI), Qaiser Choudri, President, Application Type: New NVO & OFF License.

RR Donnelley Logistics Services Worldwide, Inc. dba DLS Worldwide (NVO & OFF), 1000 Windham Parkway, Bolingbrook, IL 60490, Officers: Thomas K. Griffin, President (QI), Charles E. Fattore, Chairman, Application Type: New NVO & OFF License.

Seastar International Group Inc (NVO & OFF), 1170 US Highway 22, #105, Bridgewater, NJ 08807, Officers: Ying Zhao, President (QI), Wei Liu, Secretary, Application Type: Add NVO Service.

Seven Seas Spirit, Inc (NVO), 1851 NE 146th Street, North Miami, FL 33181, Officer: Yelena Farber, President (QI), Application Type: New NVO License.

US Com Express, LLC (NVO & OFF), 1420 Francisco Street, Torrance, CA 90501, Officer: Young C. Joh, Member (QI), Application Type: New NVO & OFF License.

Walmay Logistics Inc. (NVO), 5171 Via Marcos, Yorba Linda, CA 92887, Officers: Shifeng Hou, President (QI), Song Yang, Managing Director, Application Type: New NVO License.

By the Commission.

Dated: September 21, 2012.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2012–23707 Filed 9–25–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2012–23096) published on page 58141 of the issue for Wednesday, September 19, 2012.

Under the Federal Reserve Bank of St. Louis heading, the entry for Clayton B. Patrick, Frankfort, Kentucky, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Clayton B. Patrick, Frankfort, Kentucky;* to acquire voting shares of American Founders Bancorp, Inc., and thereby indirectly acquire voting shares of American Founders Bank, Inc., both in Lexington, Kentucky.

Comments on this application must be received by October 2, 2012.

Board of Governors of the Federal Reserve System, September 20, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–23584 Filed 9–25–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the

notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 11, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *W.M. Ferguson Testamentary Trust, and Martin J. Peck, individually and as Trustee,* both of Wellington, Kansas; to acquire control of SSB Holdings, Inc., and thereby indirectly acquire control of Security State Bank, both in Wellington, Kansas.

Board of Governors of the Federal Reserve System, September 21, 2012.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2012–23705 Filed 9–25–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 22, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Exchange Bancorp of Missouri, Inc., Fayette, Missouri, and Northern Missouri Bancshares, Inc.,* Unionville, Missouri; to acquire 100 percent of the voting shares of Slater Bancshares, Inc., and thereby indirectly acquire voting shares of State Bank of Slater, both in Slater, Missouri.

In addition, Applicants have applied to acquire Slater Acquisition Corp., Fayette, Missouri; which has applied to become a bank holding company by acquiring 100 percent of the voting shares of Slater Bancshares, Inc., and State Bank of Slater, both in Slater, Missouri.

Board of Governors of the Federal Reserve System, September 21, 2012.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2012–23704 Filed 9–25–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 2012.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Henderson Citizens Bancshares, Inc.,* Henderson, Texas, merge with First White Oak Bancshares, Inc., and thereby indirectly acquire White Oak State Bank, both in White Oak, Texas.

Board of Governors of the Federal Reserve System, September 20, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–23585 Filed 9–25–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). 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 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). 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 22, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *United Community MHC,* Lawrenceburg, Indiana, proposes to convert to stock form and merge with United Community Bancorp, Lawrenceburg, Indiana, an existing savings and loan holding company. The existing United Community Bancorp will merge with a new company, also called United Community Bancorp, Lawrenceburg, Indiana, which will become a savings and loan holding company through the acquisition of 100 percent of the outstanding stock of United Community Bank, Lawrenceburg, Indiana, a federal savings bank.

Board of Governors of the Federal Reserve System, September 21, 2012.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2012–23706 Filed 9–25–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on HIV/AIDS

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Service (DHHS) is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held October 25, 2012 and October 26, 2012 from 9 a.m. to approximately 5 p.m. (EDT).

ADDRESSES: Washington Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005–3901.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Talev, Public Health Assistant, Presidential Advisory Council on HIV/AIDS, Department of Health and Human Services, 200 Independence Avenue SW., Room 443H, Hubert H. Humphrey Building, Washington, DC 20201; (202) 205–1178. More detailed information about PACHA can be obtained by accessing the Council's Web site *www.aids.gov/pacha.*

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995 as amended by Executive Order 13009, dated June 14, 1996. The Council was established to provide advice, information, and recommendations to the Secretary regarding programs and policies intended to promote effective prevention of HIV disease and AIDS. The functions of the Council are solely advisory in nature.

The Council consists of not more than 25 members. Council members are selected from prominent community leaders with particular expertise in, or knowledge of, matters concerning HIV and AIDS, public health, global health, philanthropy, marketing or business, as well as other national leaders held in high esteem from other sectors of society. Council members are appointed by the Secretary or designee, in consultation with the White House Office on National AIDS Policy. The agenda for the upcoming meeting will be posted on the Council's Web site at *www.aids.gov/pacha.*

Public attendance at the meeting is 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 designated contact person. Pre-registration for public attendance is advisable and can be accomplished by contacting Caroline Talev at *caroline.talev@hhs.gov.* Members of the public will have the opportunity to provide comments at the meeting. Any individual who wishes to participate in the public comment session must register with Caroline Talev at *caroline.talev@hhs.gov;* registration for public comment will not be accepted by telephone. Public comment will be limited to two minutes per speaker. Any members of the public who wish to have printed material distributed to PACHA members at the meeting should submit, at a minimum, 1 copy of the materials to Caroline Talev, no later than close of business Thursday, October 18, 2012. Contact information for the PACHA contact person is listed above.

Dated: September 18, 2012.

B. Kaye Hayes,

Executive Director, Presidential Advisory Council on HIV/AIDS.

[FR Doc. 2012–23720 Filed 9–25–12; 8:45 am]

BILLING CODE 4150–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0012]

Office of the Commissioner of Food and Drugs; Delegation of Authority

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

Notice is hereby given that I have delegated to the Commissioner of Food and Drugs (the Commissioner) certain authority added to the Public Health Service Act by section 801 of Public Law 110–85, the Food and Drug Administration Amendments Act of 2007 (42 U.S.C. 282(j)), pertaining to the expansion of the Clinical Trial Registry and Results Data Bank described therein. Specifically, the Commissioner is delegated the following authority:

- Section 402(j)(5)(C)(ii) of the Public Health Service Act (42 U.S.C. 282(j)(5)(C)(ii))—To determine that any clinical trial information was not submitted as required under 42 U.S.C. 282(j) or was submitted but is false or misleading in any particular and to notify the responsible party and give such party an opportunity to remedy non-compliance by submitting required revised clinical trial information not later than 30 days after such notification.

This authority may be redelegated. This delegation will be exercised in accordance with the Department of Health and Human Services' applicable policies, procedures, guidelines, and regulations.

I ratify and affirm any actions taken by the Commissioner or her subordinates that involved the exercise of the authority delegated herein prior to the effective date of this delegation. This delegation is effective upon date of signature.

Dated: September 5, 2012.

Kathleen Sebelius,

Secretary of Health and Human Services.

[FR Doc. 2012–23598 Filed 9–25–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 28, 2012, from 8 a.m. to 5 p.m.

Location: DoubleTree by Hilton Hotel Washington DC—Silver Spring, The Ballroom, 8727 Colesville Rd., Silver Spring, MD. The hotel's phone number is 301–589–5200.

Contact Person: Diane Goyette, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *AIDAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the safety and efficacy of new drug application (NDA) 204384, bedaquiline tablets, submitted by Janssen Therapeutics, Division of Janssen Products, LP. The proposed indication (use) for this product is for the treatment of patients with multi-drug resistant pulmonary tuberculosis.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 13, 2012. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 2, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 5, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Diane Goyette at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 18, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–23573 Filed 9–25–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Epilepsy Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Noncompetitive Program Expansion Supplement Award to the Epilepsy Foundation of America.

SUMMARY: The Health Resources and Services Administration will be issuing noncompetitive supplemental funding under the Maternal and Child Health Bureau's Epilepsy Program to the Epilepsy Foundation of America (U23MC19824) to support additional evaluation activities.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: Epilepsy Foundation of America.

Amount of the Noncompetitive Supplemental Funding: $250,700.

Authority: Section 501(a)(2) of the Social Security Act, as amended.

CFDA Number: 93.110.

Project Period: September 1, 2012, through August 31, 2013, for a total of 12 months.

Justification for the Exception to Competition: The Epilepsy Foundation of America currently contracts with Mathematica to evaluate the HRSA Epilepsy Program. There is a need to increase their allotted award through program expansion supplemental funds to support additional evaluation activities for Year 3. Mathematica will conduct a more comprehensive evaluation of the entire Epilepsy Program in order to determine the extent to which the program has addressed the legislative requirements, increased access to care in medically underserved areas, and developed/implemented evidence-based strategies to achieve the legislative purpose of the program. As a result of the evaluation, a quality improvement strategy for the Epilepsy Program will be developed and implemented by the Quality Improvement (QI) contractor. Results should provide a more comprehensive understanding of the impact across the entire program. Indicators and measures developed will also be used for the next competitive cycle to track performance, quality and outcomes within the context of the legislation and the newly published Institute of Medicine recommendations for the Epilepsies, focusing on evaluating prevention efforts.

Mathematica, John Snow Inc. (QI Contractor), and the Epilepsy

Foundation of America will work collectively to develop an evaluation plan that will contain state, local, community/stakeholder and family perspectives on the overall impact of services for the Epilepsy Program.

FOR FURTHER INFORMATION CONTACT: Diana Denboba, Chief, Integrated Services Branch, Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 13–61, Rockville, Maryland 20857, via email at *ddenboba@hrsa.gov* or call 301–443–2370.

Dated: September 20, 2012.

Mary K. Wakefield,

Administrator.

[FR Doc. 2012–23656 Filed 9–25–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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; Program Projects: Fungal Secondary Metabolites.

Date: October 10, 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: Richard Panniers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@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: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Neuroscience K–12 Education.

Date: October 23–24, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Surgical Sciences and Bioengineering.

Date: October 23, 2012.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Malgorzata Klosek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Healthcare Delivery and Methodologies Academic Research Enhancement Review.

Date: October 24, 2012.

Time: 8 a.m. to 4 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: Melinda Jenkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Discovery for the Nervous System.

Date: October 24, 2012.

Time: 1:30 p.m. to 4:30 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: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: October 25, 2012.

Time: 8 a.m. to 5 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: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301)435–1195, *Chengy5@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Acute Neural Injury and Epilepsy Study Section.

Date: October 25–26, 2012.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037,

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Molecular Oncogenesis Study Section.

Date: October 25–26, 2012.

Time: 8 a.m. to 5 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: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: October 25–26, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Jo Pelham, BA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@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 19, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23623 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biobehavioral Mechanisms of Emotion, Stress and Health Study Section, October 4, 2012, 8 a.m. to October 5, 2012, 5 p.m., Renaissance M Street Hotel, 1143 New Hampshire Avenue NW., Washington, DC, 20037 which was published in the **Federal Register** on September 5, 2012, FR 77 54582–54583.

The meeting location has been changed to Renaissance Washington DC, Dupont Circle Hotel, 1143 New Hampshire Avenue Northwest, Washington, DC 20037. The meeting date and time remain the same. The meeting is closed to the public.

Dated: September 20, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23625 Filed 9–25–12; 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 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 Children's Study Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Registration is required since space is limited and will begin at 8 a.m. Please visit the conference Web site for information on meeting logistics and to register for the meeting at *http://www.cvent.com/d/9cqsmq.* 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 Children's Study Advisory Committee.

Date: October 24, 2012.

Time: 9 a.m. to 5 p.m.

Agenda: The Committee will discuss the framework including design and process for the NCS Main Study.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Kate Winseck, MSW, Executive Secretary, National Children's Study, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5C01, Bethesda, MD 20892, (703) 902–1339, *ncs@circlesolutions.com.*

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. For additional information about the Federal Advisory Committee meeting, please contact Circle Solutions at *ncs@circlesolutions.com.*

(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 20, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23627 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed 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 Dental and Craniofacial Research Special Emphasis Panel Review of R03 applications.

Date: October 2, 2012.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jayalakshmi Raman, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial, Research, One Democracy Plaza, Room 670, Bethesda, MD 20892–4878, 301–594–2904, *ramanj@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. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 20, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23631 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel; Clinical Trial Review Meeting.

Date: October 16, 2012.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mario Rinaudo, MD, Scientific Review Officer, Office of Review, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd. (DEM 1), Suite 710, Bethesda, MD 20892, 301–594–5973, *mrinaudo@mail.nih.gov.*

Name of Committee: National Institute of Nursing Research Special Emphasis Panel; Institutional Research Training Grant.

Date: October 17, 2012.

Time: 8 a.m. to 3 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: Weiqun Li, MD, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Ste. 710, Bethesda, MD 20892, (301) 594–5966, *wli@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: September 20, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23630 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 Heart, Lung, and Blood Institute Special Emphasis Panel Mentored Career Transition Scientist Award.

Date: October 18–19, 2012.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Career Development Awards: K01, K02, K08.

Date: October 18, 2012.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–594–7947, *mintzerk@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 20, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23629 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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 National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, 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.

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 Heart, Lung, and Blood Advisory Council.

Date: October 30, 2012.

Open: 8 a.m. to 12 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Stephen C. Mockrin, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260, *mockrins@nhlbi.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.

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: *www.nhlbi.nih.gov/meetings/nhlbac/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: September 20, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23628 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Risk, Prevention and Health Behavior.

Date: October 12, 2012.

Time: 4 p.m. to 6 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: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@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; Member Conflict: Centering Neuroscience.
Date: October 23–24, 2012.
Time: 8 a.m. to 8 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 10–018: Accelerating the Pace of Drug Abuse Research Using Existing Epidemiology, Prevention, and Treatment Research Data.
Date: October 24, 2012.
Time: 2 p.m. to 4 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: George Vogler, Ph.D., Scientific Review Officer, PSE IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, Bethesda, MD 20892, 301–435–0694, *voglergp@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.
Date: October 25–26, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.
Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroscience and Neurodegeneration Study Section.
Date: October 25, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Samuel C. Edwards, Ph.D., Chief, Brain Disorders and Clinical Neuroscience, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: High Through Screening Assays For Probe Discovery.
Date: October 25, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Suites by Hilton, Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Ping Fan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–408–9971, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Risk, Prevention and Intervention for Addictions: Overflow.
Date: October 25, 2012.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.
Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PA:12–006: Academic Research Enhancement Award (Parent R15).
Date: October 25, 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: 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.
Date: October 25–26, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.
Contact Person: Mary Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–451–0996, *marygs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.
Date: October 25–26, 2012.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Mayflower Hotel 1127 Connecticut Avenue NW., Washington, DC 20036.
Contact Person: Joseph G. Rudolph, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, 301–408–9098, *josephru@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Genetic Variation and Evolution Study Section.
Date: October 25, 2012.
Time: 8:30 a.m. to 7 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Los Angeles Airport Hotel, 9620 Airport Boulevard, Los Angeles, CA 90045.
Contact Person: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301–435–4511, *ronald.adkins@nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Prokaryotic Cell and Molecular Biology Study Section.
Date: October 25, 2012.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Mandarin Oriental Hotel, 1330 Maryland Avenue SW., Washington, DC 20024.
Contact Person: Michael K. Schmidt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2214, MSC 7890, Bethesda, MD 20892, (301) 404–9958, *mschmidt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Molecular and Cellular Neuroscience, Development and Aging Biology.
Date: October 25, 2012.
Time: 11 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cardiovascular, Kidney, Obesity and Diabetes Epidemiology.
Date: October 25, 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, (Virtual Meeting).

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Lipids and Metabolism.

Date: October 25, 2012.

Time: 2 p.m. to 4 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: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurobiological Mechanisms of Brain Diseases.

Date: October 25, 2012.

Time: 2 p.m. to 3:30 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: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@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 20, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23626 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of 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 Center for Scientific Review 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: Center for Scientific Review Advisory Council.

Date: October 31, 2012.

Time: 8 a.m. to 4 p.m.

Agenda: Provide advice to the Acting Director, Center for Scientific Review (CSR), on matters related to planning, execution, conduct, support, review, evaluation, and receipt and referral of grant applications at CSR.

Place: Health and Human Services Building, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Katherine Bent, Ph.D., Senior Advisor to the Director, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3030, Bethesda, MD 20892, 301–435–0695, *bentkn@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 20, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23624 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 2, 2012, 5 p.m. to October 2, 2012, 6 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on September 6, 2012, FR 77 54921–54922.

The meeting title has been changed to ''Health Issues Across the Life Span''. The meeting is closed to the public.

Dated: September 19, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23622 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: October 17, 2012.

Time: 11:45 a.m. to 12:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6706 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Raj K. Krishnaraju, Ph.D., MS, Scientific Review Officer, Scientific Review Branch, National Institute of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., Room 4AN 32J, Bethesda, MD 20892, 301–594–4864, *kkrishna@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel.

Date: October 23, 2012.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6706 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 20, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23620 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 an Interagency Pain Research Coordinating Committee (IPRCC) meeting.

The meeting will feature invited speakers and discussion of committee business items including an overview of the Federally-funded pain research portfolio, discussion of top pain research advances over the last three years, and updates on several pain programs at the NIH and Department of Defense.

The meeting will be open to the public and accessible by live webcast and conference call.

Name of Committee: Interagency Pain Research Coordinating Committee.

Type of meeting: Open Meeting.

Date: October 22, 2012.

Time: 8:30 a.m. to 5 p.m. *Eastern Time*—Approximate end time.

Agenda: The meeting will feature invited speakers and discussion of committee business items including an overview of the Federally-funded pain research portfolio, discussion of top pain research advances over the last three years, and updates on several pain programs at the NIH and Department of Defense.

Place: National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Conference Call: Dial: 888–849–8924, Participant Passcode: 4770405.

Cost: The meeting is free and open to the public.

Webcast Live: http://videocast.nih.gov/.

Registration: http://iprcc.nih.gov/. Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and is on a first come, first served basis.

Deadlines: Notification of intent to present oral comments: Thursday, October 11, 2012, by 5 p.m. ET. *Submission of written/electronic statement for oral comments:* Monday, October 15, 2012, by 5 p.m. ET. *Submission of written comments:* Wednesday, October 17, 2012, by 5 p.m. ET.

Access: Medical Center Metro (Red Line). Visitor Information: *http://www.nih.gov/about/visitor/index.htm.*

Contact Person: Linda L. Porter, Ph.D., Health Science Policy Advisor, Officer of the Director, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A03, Bethesda, MD 20892, Phone: (301) 496–9271, Email: IPRCC *PublicInquiries@mail.nih.gov.*

Please Note: Any member of the public interested in presenting oral comments to the Committee must notify the Contact Person listed on this notice by 5 p.m. ET on Thursday, October 11, 2012, with their request to present oral comments at the meeting. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral statement/comments including a brief description of the organization represented by 5 p.m. ET on Monday, October 15, 2012.

Statements submitted will become a part of the public record. Only one representative of an organization will be allowed to present oral comments on behalf of that organization, and presentations will be limited to three to five minutes per speaker, depending on number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received, along with the required submission of the written/electronic statement by the specified deadline. If special accommodations are needed, please email the Contact Person listed above.

In addition, any interested person may submit written comments to the IPRCC prior to the meeting by sending the comments to the Contact Person listed on this notice by 5 p.m. ET, Wednesday, October 17, 2012. The comments should include the name and, when applicable, the business or professional affiliation of the interested person. All written comments received by the deadlines for both oral and written public comments will be provided to the IPRCC for their consideration and will become part of the public record.

The meeting will be open to the public through a conference call phone number and webcast live on the Internet. Members of the public who participate using the conference call phone number will be able to listen to the meeting but will not be heard. If you experience any technical problems with the conference call or webcast, please call Operator Service on (301) 496–4517 for conference call issues and the NIH IT Service Desk at (301) 496–4357, toll free (866) 319–4357, for webcast issues.

Individuals who participate in person or by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least seven days prior to the meeting.

As a part of security procedures, attendees should be prepared to present a photo ID during the security process to get on the NIH campus. For a full description, please see: *http://www.nih.gov/about/visitorsecurity.htm.*

Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered. Information about the IPRCC is available on the Web site: *http://iprcc.nih.gov/.*

Dated: September 19, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–23621 Filed 9–25–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0051]

Critical Infrastructure Partnership Advisory Council (CIPAC)

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Notice of CIPAC meeting.

SUMMARY: The Critical Infrastructure Partnership Advisory Council (CIPAC) Plenary Meeting will be held on Wednesday, October 3, 2012, at the Walter E. Washington Convention Center, 801 Mount Vernon Place NW., Washington, DC 20001. The meeting will be open to the public.

DATES: The CIPAC Plenary Meeting will be held on Wednesday, October 3, 2012 from 8:30 a.m. to 4 p.m. Registration will begin at 7:30 a.m. For additional information, please consult the CIPAC Web site, *http://www.dhs.gov/cipac*, or contact the CIPAC Secretariat by phone at (703)235–3999 or by email at *CIPAC@hq.dhs.gov.*

ADDRESSES: The meeting will be held at the Walter E. Washington Convention Center, 801 Mount Vernon Place NW., Washington, DC 20001.

While this meeting is open to the public, participation in the CIPAC deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

Immediately following the committee member deliberation and discussion period, there will be a limited time period for public comment. This public comment period is designed for substantive commentary that must pertain only to matters involving critical infrastructure protection and resiliency. Off-topic questions or comments will not be permitted or discussed. Please note that the public comment period may begin prior to 3 p.m. if the committee has completed its business.

To accommodate as many speakers as possible, oral presentations will be limited to three (3) minutes per speaker, with no more than 30 minutes for all speakers. Parties interested in presenting must register in person at the meeting location. Oral presentations will be permitted on a first-come, first-serve basis, and given based upon the order of registration; all registrants may not be able to speak if time does not permit.

Written comments are welcome at any time prior to or following the meeting. Written comments may be sent to Renee Murphy, National Protection and

Programs Directorate, Department of Homeland Security, 245 Murray Lane, SW., Mail Stop 0607, Arlington, VA 20598–0607. For consideration in the CIPAC deliberations, written comments must be received by Renee Murphy by no later than October 2, 2012, identified by ''DHS–2012–0051'' and must be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: CIPAC@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (703) 603–5098.
- *Mail:* Renee Murphy, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, SW., Mail Stop 0607, Arlington, VA 20598–0607.

Instructions: All written submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Written comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the CIPAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Renee Murphy, Section Chief, Sector Outreach and Programs Division, Office of Infrastructure Protection, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607, telephone (703) 235–3999 or via email at *CIPAC@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: CIPAC represents a partnership between the Federal Government and critical infrastructure owners and operators and provides a forum in which they can engage in a broad spectrum of activities to support and coordinate critical infrastructure protection.

The October 3, 2012 meeting will include topic-specific discussions focused on partnership efforts to enhance critical infrastructure resilience. Topics such as Physical and Cyber Critical Infrastructure Protection, Industrial Control Systems Security, Opportunities in Mitigating Aging U.S Infrastructure, Social Media's Role in Critical Infrastructure, and Critical Infrastructure Program Updates will be discussed.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the CIPAC Secretariat at (703) 235–3999 as soon as possible.

Dated: September 20, 2012.

Larry May,

Designated Federal Officer for the Critical Infrastructure Partnership Advisory Council.

[FR Doc. 2012–23666 Filed 9–25–12; 8:45 am]

BILLING CODE 9910–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0075]

Agency Information Collection Activities: Affidavit of Support Under Section 213A of the Act, Form I–864, Affidavit of Support Under Section 213A of the Act; Form I–864A, Contract Between Sponsor and Household Member, Form I–864 EZ, Affidavit of Support Under Section 213A of the Act; Form I–864W, Intending Immigrant's Affidavit of Support Exemption; Revision of a Currently Approved Collection

ACTION: 30-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on June 1, 2012, at 77 FR 32658, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice. The comment proposed modifications to the form I–864 and USCIS considered each one. Based upon the current functionality of the form, USCIS will not be implementing these changes.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 26, 2012. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to DHS, and to the OMB USCIS Desk Officer. Comments may be submitted to: DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020. Comments may also be submitted to DHS via email at *uscisfrcomment@dhs.gov,* to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via email at *oira_submission@omb.eop.gov* and via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0029. When submitting comments by email, please make sure to add 1615–0075 in the subject box.

All submissions received must include the agency name, OMB Control Number and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Affidavit of Support under Section 213A of the Act.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–864, Affidavit of Support Under Section 213A of the Act; Form I–864A, Contract Between Sponsor and Household Member, Form I–864 EZ, Affidavit of Support Under Section 213A of the Act; Form I–864W, Intending Immigrant's Affidavit of Support Exemption; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. These forms are used by family-based and certain employment-based immigrants to have the petitioning relative execute an Affidavit of Support on their behalf.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Form I–864, 439,500 responses at 6 hours per response; Form I–864A, 215,800 responses at 1.75 hours per response; Form I–864EZ, 100,000 responses at 2.5 hours per response; Form I–864W, 1,000 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,265,650 Hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; Telephone 202–272–8377.

Dated: September 20, 2012.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–23684 Filed 9–25–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0059]

Agency Information Collection Activities: Application for Posthumous Citizenship, Form Number N–644; Extension, Without Change, of a Currently Approved Collection

ACTION: 30-day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on July 24, 2012, at 77 FR 43346, allowing for a 60-day public comment period. USCIS did not receive any comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 26, 2012. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to DHS, and to the OMB USCIS Desk Officer. Comments may be submitted to: DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020. Comments may also be submitted to DHS via email at *uscisfrcomment@dhs.gov,* to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via email at *oira_submission@omb.eop.gov* and via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0004. When submitting comments by email, please make sure to add 1615–0059 in the subject box.

All submissions received must include the agency name, OMB Control Number and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Posthumous Citizenship.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–644; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected will be used to determine an applicant's eligibility to request posthumous citizenship status for a decedent and to determine the decedent's eligibility for such status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 respondents and an estimated average burden per response of 1.833 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 92 hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov*. We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; Telephone 202–272–8377.

Dated: September 21, 2012.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–23680 Filed 9–25–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Foreign Assembler's Declaration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-day notice and request for comments; extension of an existing collection of information.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning Foreign Assembler's Declaration (with Endorsement by Importer). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before November 26, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC. 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or recordkeepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Foreign Assembler's Declaration (with Endorsement by Importer).

OMB Number: 1651–0031.

Form Number: None.

Abstract: In accordance with 19 CFR 10.24, a Foreign Assembler's Declaration must be made in connection with the entry of assembled articles under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS). This declaration includes information such as the quantity, value and description of the imported merchandise. The declaration is made by the person who performed the assembly operations abroad and it includes an endorsement by the importer. The Foreign Assembler's Declaration is used by CBP to determine whether the operations performed are within the purview of subheading 9802.00.80, HTSUS and therefore eligible for preferential tariff treatment.

19 CFR 10.24(c) and (d) require that the importer/assembler maintain records for 5 years from the date of the related entry and that they make these records readily available to CBP for audit, inspection, copying, and reproduction.

Current Actions: CBP proposes to extend the expiration date of this information collection with a change to the estimated burden hours based the number of Foreign Assembly Declarations completed in 2011. There is no change to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

Estimated Number of Respondents/Recordkeepers: 2,730.

Estimated Time per Response/Recordkeeping: 55 minutes.

Estimated Number of Responses/Recordkeeping per Respondent: 128.

Estimated Total Annual Burden Hours: 320,251.

Dated: September 20, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–23600 Filed 9–25–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–67]

Notice of Submission of Proposed Information Collection to OMB; OSHC Financial Reporting Form

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 Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program.

The Department of Housing and Urban Development's Sustainable Communities Initiative (SCI) Planning Grant Programs, which comprise of the Sustainable Communities Regional Planning Grant Program and the Community Challenge Planning Grant

Program, require the financial reporting by grantees. This tracking of grantee financial data is solely in regards to the HUD-OSHC SCI grant. Such tracking is obligatory during the prescribed reporting periods, reimbursement requests for award funds, proof of in-kind contributions toward grant match funding, and the close-out of the award.

DATES: *Comments Due Date*: October 26, 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 (2501-Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; 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; e-mail 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: OSHC Financial Reporting Form.

OMB Approval Number: 2501-Pending.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use:

The Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10, approved April 15, 2011) (Appropriations Act), provided a total of $100,000,000 to HUD for a Sustainable Communities Initiative to improve regional planning efforts that integrate housing and transportation decisions, and increase the capacity to improve land use and zoning. Of that total, $70,000,000 is available for the Sustainable Communities Regional Planning Grant Program, and $30,000,000 is available for the Community Challenge Planning Grant Program. The Department of Housing and Urban Development's Sustainable Communities Initiative (SCI) Planning Grant Programs, which comprise of the Sustainable Communities Regional Planning Grant Program and the Community Challenge Planning Grant Program, require the financial reporting by grantees. This tracking of grantee financial data is solely in regards to the HUD-OSHC SCI grant. Such tracking is obligatory during the prescribed reporting periods, reimbursement requests for award funds, proof of in-kind contributions toward grant match funding, and the close-out of the award.

Estimation of the Total Numbers of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response:

The number of burden hours is 300. The number of respondents is 200, the number of responses is 1200, the frequency of response is on occasion, and the burden hour per response is 0.25.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 19, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–23695 Filed 9–25–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–69]

Notice of Submission of Proposed Information Collection to OMB: Public Housing Agency, Lease Requirements, Recordkeeping Requirements

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 Public Housing lease and grievance procedures are a recordkeeping requirement on the part of Public Housing agencies (PHAs) as they are required to enter into and maintain lease agreements for each individual or family that occupies a Public Housing unit. Also, both PHAs and tenants are required to follow the protocols set forth in the grievance procedures for both an informal and formal grievance hearing. The current revision was needed to correct errors in the 2009 calculation. The earlier calculation had over the amount of time needed to complete the form. The previous submission incorrectly included the number of responding PHAs in the calculation and also incorrectly assumed that 100% of households would be reviewing or initiating a lease. The correction of the errors brought the number of burden hours down from 5,671,800 to 339,822.

DATES: *Comments Due Date:* October 26, 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 (2577–0006) 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: Public Housing Agency (PHA), Lease Requirements, Recordkeeping Requirements.

OMB Approval Number: 2577–0006.

Form Number: None.

Description of the Need for the Information and its Proposed Use: The Public Housing lease and grievance procedures are a recordkeeping requirement on the part of Public Housing agencies (PHAs) as they are required to enter into and maintain lease agreements for each individual or family that occupies a Public Housing unit. Also, both PHAs and tenants are required to follow the protocols set forth in the grievance procedures for both an informal and formal grievance hearing. The current revision was needed to correct errors in the 2009 calculation. The earlier calculation had over the amount of time needed to complete the form. The previous submission incorrectly included the number of responding PHAs in the calculation and also incorrectly assumed that 100% of households would be reviewing or initiating a lease. The correction of the errors brought the number of burden hours down from 5,671,800 to 339,822.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,144	1		108.08		339,822

Total Estimated Burden Hours: 339,822.

Status: Reinstatement with change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended

Dated: September 19, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–23697 Filed 9–25–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603-N–68]

Submission of Proposed Information Collection to OMB; Screening and Eviction for Drug Abuse and Other Criminal Activity

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 information and collection requirements consist of PHA screening requirements to obtain criminal conviction records from law enforcement agencies to prevent admission of criminals into the public housing and Section 8 programs and to assist in lease enforcement and eviction of those individuals in the public housing and Section 8 programs who engage in criminal activity. The reason for the current revision is that the 2009 submission only included the burden hours for Public Housing participants. Because the screening is done for residents in the Public Housing and Section 8 program, the calculations were updated to reflect this reality. The current calculations use the existing formula for burden hours but include voucher residents.

DATES: *Comments Due Date*: October 26, 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 (2577–0232) 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: Screening and Eviction for Drug Abuse and Other Criminal Activity.

OMB Approval Number: 2577–0232.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The information and collection requirements consist of PHA screening requirements to obtain criminal conviction records from law enforcement agencies to prevent admission of criminals into the public housing and Section 8 programs and to assist in lease enforcement and eviction of those individuals in the public housing and Section 8 programs who engage in criminal activity. The reason for the current revision is that the 2009 submission only included the burden hours for Public Housing participants. Because the screening is done for residents in the Public Housing and Section 8 program, the calculations were updated to reflect this reality. The current calculations use the existing formula for burden hours but include voucher residents.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden	3,144	53.274		12.650	2,118,814

Total Estimated Burden Hours: 2,118,814.

Status: Reinstatement with change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 19, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–23696 Filed 9–25–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2012–0015; OMB Control Number 1014–0019]

Information Collection Activities: Oil and Gas Production Requirements; Proposed Collection; Comment Request

ACTION: 60-day Notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), BSEE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns a revision to the paperwork requirements in the regulations under Subpart K, *Oil and Gas Production Requirements.*

DATE: You must submit comments by November 26, 2012.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to *http://www.regulations.gov.* In the entry titled *Enter Keyword or ID,* enter BSEE–2012–0015 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.* Mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; Attention: Cheryl Blundon; 381 Elden Street, HE3313; Herndon, Virginia 20170–4817. Please reference ICR 1014–0019 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607 to request additional information about this ICR.

SUPPLEMENTARY INFORMATION: *Title:* 30 CFR Part 250, Subpart K, Oil and Gas Production Requirements.

OMB Control Number: 1014–0019.

Form(s): BSEE–0126 and BSEE–0128.

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 to administer leasing of mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease, right-of-way, or a right-of-use and easement. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations ''to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein'' and to include provisions ''for the prompt and efficient exploration and development of a lease area.''

Section 1334(g)(2) states ''* * * the lessee shall produce such oil or gas, or both, at rates * * * to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan.''

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, the Bureau of Safety and Environmental Enforcement (BSEE) is required to charge the full cost for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those that accrue to the public at large. Several requests for approval required in Subpart K are subject to cost recovery, and BSEE regulations specify service fees for these requests.

This ICR addresses our current regulations governing oil and gas production at 30 CFR Part 250, Subpart K, associated forms, and related Notices to Lessees (NTLs) and Operators. The BSEE issued several NTLs to clarify and provide additional guidance on some aspects of the current Subpart K regulations. This collection of information will renew the approved information collection for the current Subpart K regulations (1014–0019).

Regulations at 30 CFR Part 250, Subpart K, implement these statutory requirements. We use the information in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest. Specifically, BSEE uses the information to:

- Evaluate requests to burn liquid hydrocarbons and vent and flare gas to ensure that these requests are appropriate;
- Determine if a maximum production or efficient rate is required; and,
- Review applications for downhole commingling to ensure that action does not result in harm to ultimate recovery.

However, in this ICR, we have also clarified some sections of Form BSEE–0126. These clarifications pose minor edits and they are as follows:

In Block No. 88, TYPE OF REQUEST, we added the word ''Reestablish''; in Block No. 108, we revised the block that read ''API @ 60° F'' to now read as ''API @ 14.73 PSI & 60° F'' and in Block No. 109, we revised the block from ''SP GR GAS'' to now read as ''SP GR GAS @ 14.73 PSI & 60°F''.

We use the information in Form BSEE–0126, Well Potential Test Report, for reservoir, reserves, and conservation analyses, including the determination of maximum production rates (MPRs) when necessary for certain oil and gas completions. The information obtained from the well potential test is essential to determine if an MPR is necessary for a well and to establish the appropriate

rate. The information in Form BSEE–0128, Semiannual Well Test Report, is used to evaluate the results of well tests to determine if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. This information is collected to determine the capability of hydrocarbon wells and to evaluate and verify an operator's approved maximum production rate if assigned.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), and 30 CFR 250.197, *Data and information to be made available to the public or for limited inspectio*n, 30 CFR part 252, *OCS Oil and Gas Information Program.* Proprietary information concerning geological and geophysical data will be protected according to 43 U.S.C. 1352. Responses are mandatory or are required to obtain or retain a benefit.

Frequency: On occasion, monthly, semi-annually, annually, and as a result of situations encountered depending upon the requirements.

Description of Respondents: Potential respondents comprise Federal oil, gas, or sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 43,396 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

30 CFR Part 250 Subpart K and related NTLs	Reporting & recordkeeping requirement	Hour burden Non-hour cost $ burden
WELL TESTS/SURVEYS and CLASSIFYING RESERVOIRS		
1151(a)(1), (c); 1167	Conduct well production test; submit Form BSEE–0126 (Well Potential Test Report) and supporting information within 15 days after end of test period.	3.
1151(a)(2), (c); 1167	Conduct well production test; submit Form BSEE–0128 (Semiannual Well Test Report) and supporting information within 45 days after end of calendar half-year.	0.1 to 3.*
1151(b)	Request extension of time to submit results of semi-annual well test	0.5.
1152(b), (c);	Request approval to conduct well testing using alternative procedures	0.5.
1152(d)	Provide advance notice of time and date of well tests	0.5.
APPROVALS PRIOR TO PRODUCTION		
1156; 1167	Request approval to produce within 500 feet of a unit or lease line; submit supporting information/documentation; notify adjacent operators and provide BSEE proof of notice date.	5. $3,608 per request.
1156(b); 1158(b)	Notify adjacent operators submit letters of acceptance or objection to BSEE within 30 days after notice; include proof of notice date.	.5.
1157; 1167	Request approval to produce gas-cap gas in an oil reservoir with an associated gas cap, or to continue producing an oil well showing characteristics of a gas well with an associated gas cap; submit producing an oil well showing characteristics of a gas well with an associated gas cap; submit supporting information.	12 $4,592 per request.
1158; 1167	Request approval to downhole commingle hydrocarbons; submit supporting information; notify operators and provide proof of notice date.	6. $5,357 per request.
FLARING, VENTING, and BURNING HYDROCARBONS		
1160; 1161; 1163(e)	Request approval to flare or vent natural gas or exceed specified time limits/volumes; submit evaluation/documentation; report flare/vent information due to blow down of transportation pipelines within 72 hours after incident.	0.5.
1160(b); 1164(b)(1), (2)	H2S Contingency, Exploration, or Development and Production Plans and, Development Operations Coordination Documents—burdens covered under 1014–0018 and BOEM's 1010–0151. Monitor air quality and report—burdens covered under BOEM's 1010–0057.	
1162; 1163(e)	Request approval to burn produced liquid hydrocarbons; demonstrate no risk and/or submit documentation re transport. If approval needed, submit documentation with relevant information re hydrocarbons burned under the approval.	0.5.
1163	Initial purchase and installation of gas meters to measure the amount of gas flared or vented.	$77,000 per meter.
1163(a)(1)	Notify BSEE when facility begins to process more than an average of 2,000 bopd per month..	0.833
1163(b);	Report to ONRR hydrocarbons produced, including measured gas flared/vented and liquid hydrocarbon burned—burden covered under 1012–0004.	

30 CFR Part 250 Subpart K and related NTLs	Reporting & recordkeeping requirement	Hour burden / Non-hour cost $ burden
1163(a), (c), (d)	Maintain records for 6 years detailing gas flaring/venting, liquid hydrocarbon burning;	13.
	flare/vent meter recordings; make available for inspection or provide copies upon request.	.5.
1164(c)	Submit monthly reports of flared or vented gas containing H_2S	2.
OTHER REQUIREMENTS		
1165(b)	Submit proposed plan and supporting information for enhanced recovery operations	12.
1165(c)	Submit periodic reports of volumes of oil, gas, or other substances injected, produced, or produced for a second time—burden covered under ONRR's 1012–0004.	
1166	Alaska Region only: submit annual reservoir management report and supporting information: Required by State; New development not State; Annual revision.	1. 100. 20.
1150–1167	General departure or alternative compliance requests not specifically covered elsewhere in Subpart K.	1.

* Reporting burden for this form is estimated to average 0.1 to 3 hours per form depending on the number of well tests reported, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified four non-hour cost burdens for this collection. Section 250.1157 requires a fee ($4,592) for a gas cap production request. Section 250.1156 requires a fee ($3,608) to produce within 500 feet of a lease line request. Section 250.1158 requires a fee ($5,357) for a downhole commingling request. Section 250.1163 requires purchase and installation of gas meters ($77,000) to measure the amount of gas flared or vented for facilities that produce more than 2,000 bopd. 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: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

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

Dated: September 18, 2012.

Robert W. Middleton,

Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2012–23687 Filed 9–25–12; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2012–N194; FRES48010810420–L5–FY12]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Pacific Gas and Electric Company (PG&E) for authorization under the Marine Mammal Protection Act of 1972 (MMPA) to take small numbers of southern sea otters (*Enhydra lutris nereis*) by harassment, as those terms are defined in the statute and the Service implementing regulations, incidental to a marine geophysical survey. In accordance with provisions of the MMPA, we request comments on our proposed authorization for the applicant to incidentally take, by harassment, small numbers of southern sea otters for a period of 2.5 months beginning on October 15, 2012, and ending December 31, 2012. We anticipate no take by injury or death and include none in this proposed authorization, which would be for "take by harassment" only.

DATES: Comments and information must be received by October 26, 2012.

ADDRESSES: You may submit comments by any one of the following methods:

1. *By U.S. mail or hand-delivery to:* Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.

2. *By fax to:* 805–644–3958, attention to Diane Noda, Field Supervisor.

3. *By electronic mail (email) to: R8_SSO–IHA_Comment@FWS.gov.*

Please include your name and return address in your message.

FOR FURTHER INFORMATION CONTACT: To request copies of the application, the list of references used in this notice, and other supporting materials, contact Lilian Carswell at the address in **ADDRESSES**, or by email at *Lilian_Carswell@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA, as amended (16 U.S.C. 1371 (a)(5)(A) and (D)), authorize the Secretary of the Interior to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, provided that we make certain findings and either issue regulations or, if the taking is limited to harassment, provide a notice of a proposed authorization to the public for review and comment.

We may grant authorization to incidentally take marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. As part of the authorization process, we prescribe permissible methods of taking and other means of affecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill, any marine mammal. ''Harassment,'' as defined by the MMPA, means ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [the MMPA calls this Level A harassment], or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [the MMPA calls this Level B harassment].''

The terms ''small numbers,'' ''negligible impact,'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Small numbers'' is defined as ''a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.'' ''Negligible impact'' is defined as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' ''Unmitigable adverse impact'' is defined as ''an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.'' The subsistence provision does not apply to the southern sea otters.

Section 101(a)(5)(D) of the MMPA established an expedited process by which U.S. citizens can apply for an authorization to incidentally take small numbers of marine mammals where the take will be limited to harassment. Section 101(a)(5)(D)(iii) establishes a 45-day time limit for Service review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, we must either issue or deny issuance of the authorization. We refer to these authorizations as Incidental Harassment Authorizations (IHAs).

Summary of Request

On August 31, 2012, we received a revised request from PG&E (applicant) for MMPA authorization to ''take by harassment'' southern sea otters (*Enhydra lutris nereis*) incidental to a High Energy Seismic Survey (HESS) in the vicinity of the Diablo Canyon Power Plant (DCPP) and known offshore fault zones near DCPP in San Luis Obispo County, California. An initial request was received June 28, 2012. The project is a collaborative effort between PG&E and the Lamont-Doherty Earth Observatory (LDEO), a part of Columbia University. The project would consist of deploying a seismic sound source offshore and receivers at both onshore and offshore locations to generate data that could be used to improve imaging of major geologic structures and fault zones in the vicinity of the DCPP. Project activities are necessary to comply with the requirements established by California State Assembly Bill 1632 and directives of the California Public Utilities Commission to determine whether there is any relationship between the known faults and to enhance knowledge of offshore faults that are located in proximity to the Central California Coast and DCPP. Estimating the limits of future earthquake ruptures is particularly important in light of the close proximity of the Hosgri Fault Zone to DCPP, one of California's major nuclear power plants.

The applicant would conduct the geophysical survey with a seismic research vessel (R/V *Marcus G. Langseth*), owned by the National Science Foundation (NSF), and support/monitoring vessels, within two partially overlapping survey box areas located between Estero Bay and the Santa Maria River mouth (survey box area 3 was initially proposed but has been removed from the project, and survey box area 1 was initially proposed for 2012 but is now proposed to be conducted in 2013; because IHAs are valid for no more than 1 year, only survey box areas 2 and 4 are considered under this authorization). Should the applicant request incidental harassment authorization for survey box area 1 in 2013, the Service will reanalyze the small number and negligible impact determinations, which would include evaluation of the information gained through the monitoring and reporting requirements proposed in this IHA, and make a new finding at that time. The survey boxes would consist of multiple parallel transect lines spaced approximately 200 meters (m) (656 feet (ft)) apart for survey box area 2 and approximately 300 m (984 ft) apart for survey box 4. The average line lengths and transit times for survey box areas 2 and 4 are given in Table 1.

TABLE 1—GEOPHYSICAL SURVEY BOX LINE LENGTHS AND DURATIONS

Survey box	Average line length	Line transit time (hours)	Average line change time (hours)	Total time for one survey circuit (hours)
2	49.09 km (30.5 mi)	5.89	1.58	14.94
4	11.57 km (7.19 mi)	1.39	2	6.78

The geophysical survey vessel would tow a series of sound-generating air guns and sound-recording hydrophones along pre-determined shore-parallel and shore-perpendicular transects to conduct deep seismic reflection profiling of major geologic structures and fault zones in the vicinity of DCPP. The air gun array would be towed at a depth of 9 m (30 ft) and consist of 18 air guns with a total air discharge volume of approximately 3,300 inch (in)^3. The sound would be generated by the discharge of the air guns once every 15–20 seconds, approximately every 37.5 m (123 ft), assuming a vessel speed of 8.3 kilometers (km)/hour (hr) (4.5 knots).

The nearshore actions would include the placement of 12 seafloor geophones (*e.g.,* Fairfield Z700 nodal units) in nearshore water areas (to approximately the 70 m [300 ft] isobath).The proposed deep (10 to 15 km or 6 to 9 miles [mi]) below ground survey High Energy Seismic Survey (HESS) (energy > 2 kilo joule) would complement previously completed shallow (<1 km [<0.6 mi] below ground surface) low energy (<2 kilo joule) 3D seismic reflection surveys.

A detailed description of the proposed action is contained in the Draft Environmental Assessment (Draft EA) for Marine Geophysical Surveys by the R/V *Marcus G. Langseth* for the Central Coastal California Seismic Imaging (Padre Associates, Inc. 2012), and the revised Incidental Harassment Authorization (IHA) Application (Padre Associates, Inc. 2012) submitted to the National Marine Fisheries Service (NMFS) and the Service on August 31, 2012.

Description of the Activity

Marine Geophysical Surveys by the R/V *Marcus G. Langseth* for the Central Coastal California Seismic Imaging Project (project), *San Luis Obispo County, California.*

a. Timing of Activities

The surveys are proposed to be conducted from October 15 through December 31, 2012, to avoid the period of highest marine mammal and fish migration activity and to accommodate nesting bird constraints. Mobilization could begin as early as October 15, but sound source verification procedures and active air gun surveys would start no earlier than November 1. The surveys would occur 24 hours per day, 7 days per week. The project duration would be approximately 49 days, with the seismic survey comprising approximately 23 of those days, and the remaining days occupied in project preparation, transit, and anticipated weather and/or ship maintenance delays.

The proposed survey includes a total survey line length of 3,565.8 km (2,215.7 mi), of which 46.4 km (28.8 mi) of survey transect lines would be traveled in areas shallower than the 40-m (131-ft) contour. The 40-m (131-ft) contour is the depth within which more than 95 percent of southern sea otter dives occur (Tinker *et al.* 2006a). The survey vessel would spend approximately 5.5 hours of the 23-day project (survey portion) schedule in areas shallower than the 40-m (131-ft) contour. However, because sound travels outward from the air guns, areas within the 40-m (131-ft) contour would at times be ensonified to levels of 160 decibels relative to one microPascal (dB re 1 μPa) or greater even when the vessel is outside this contour. Portions of these areas would be ensonified to levels of 160 dB re 1 μPa or greater whenever the vessel was within 6.2 km (3.9 mi) of the 40-m (131-ft) contour, totaling approximately 184 hours (115 and 69 hours for survey box areas 2 and 4, respectively) over the duration of the survey. A circular area surrounding the airguns with a radius of 1.0 km (0.63 mi) would be ensonified to levels of 180 dB re 1 μPa or greater. This area would be designated an ''exclusion zone'' (see *Mitigation Measures* below).

b. Geographic Location of Activities

The 3D seismic survey track lines encompass an area of approximately 740.5 km^2 (285.9 mi^2), including all survey box overlapping areas (the actual survey footprint is approximately 631 km^2 [244 mi^2]). The offshore (vessel) survey would be conducted between Cambria and the Santa Maria River mouth in both Federal and State waters, in water depths ranging from 0 to over 400 m (1,300 ft). The Point Buchon Marine Protected Area (MPA) lies within portions of the survey area, and the Cambria and White Rock Marine Conservation Areas (MCA) are located within areas of survey vessel turns. The Monterey Bay National Marine Sanctuary (MBNMS), a federally protected marine sanctuary that extends northward from Cambria to Marin County, is located to the north of the project area.

Description of Habitat and Marine Mammals Affected by the Activity

The project would be conducted in rocky-bottom and sandy-bottom marine habitat off the coast of central California in water depths ranging from 0–400 m (1,300 ft). Sea otter habitat is typically defined by the 40-m (131-ft) isobath (Laidre *et al.* 2001). Individually, survey box areas 2 and 4 would ensonify 8.3 and 7.4 percent of the southern sea otter range, respectively, to levels of 160 dB re 1 μPa or greater. Because these survey box areas overlap, the total proportion of the range affected is less than the sum of two survey box areas viewed independently. In total, approximately 11.5 percent of the habitat within which the mainland population of the southern sea otter currently occurs would be ensonified to levels of 160 dB re 1 μPa or greater over the duration of the survey. This habitat is located in the southern half of the southern sea otter's range.

The southern sea otter is the only marine mammal under the jurisdiction of the Service that would be affected by the proposed project. Among the largest members of the family Mustelidae but the smallest of marine mammals, southern sea otters exhibit limited sexual dimorphism (males are larger than females) and can attain weights and lengths up to 40 kg (88 lbs) and 140 cm (55 in), respectively. They have a typical life span of 11–15 years (Riedman and Estes 1990). Unlike most other marine mammals, sea otters have little subcutaneous fat. They depend on their clean, dense, water-resistant fur for insulation against the cold and maintain a high level of internal heat production to compensate for their lack of blubber. Consequently, their energetic

requirements are high, and they consume an amount of food equivalent to approximately 23 to 33 percent of their body weight per day (Riedman and Estes 1990). Contamination of the fur by oily substances can destroy its insulating properties and lead to hypothermia and death. The loss of the insulating properties of the fur exacerbates the adverse effects of oil spills on southern sea otters and is one of the reasons that increased tanker traffic and the potential for oil spills was considered in the listing of the species.

Southern sea otters forage in both rocky and soft-sediment communities in water depths generally 25 m (82 ft) or less, although individuals occasionally move into deeper water. Individual animals tend to specialize on a subset of the overall population diet. Dive depth and dive pattern vary by sex (males tend to make deep dives more frequently than females), geographic location, and diet specialization (Tinker *et al.* 2006a, Tinker *et al.* 2007). Sea otters occasionally make dives of up to 328 ft (100 m), but the vast majority of feeding dives (more than 95 percent) occur in waters less than 131 ft (40 m) in depth (Tinker *et al.* 2006a). Therefore, sea otter habitat is typically defined by the 40-m (131-ft) isobath (Laidre *et al.* 2001).

The annual patterns that characterize the movements of southern sea otters along the coast are complicated and vary between males and females. Their home ranges tend to consist of several heavily used areas with travel corridors between them. Animals often remain in an area for a long period of time and then suddenly move long distances. These movements can occur at any time of the year (Riedman and Estes 1990). Sub-adult males have the largest home ranges, followed by adult males, sub-adult females, and adult females (Tinker *et al.* 2006a). Compared to males, most females are more sedentary, although females also occasionally travel long distances. Juvenile males move further from natal groups than do juvenile females. Aggressive behavior exhibited towards the juvenile males by breeding males may be partially responsible for their more extensive travels (Ralls *et al.* 1996). Jameson (1998) noted that adult male sea otters are territorial and exclude juvenile and subordinate males from their territories. However, females move freely across these territories. Generally, southern sea otters occupy territories on a seasonal basis. Many males migrate to the range peripheries during the winter and early spring, apparently to take advantage of more abundant prey resources, but then return to the range center during the period when most breeding occurs (June to November) in search of estrous females (Jameson 1989; Tinker *et al.* 2006a; Tinker *et al.* 2006b). A peak period of pupping occurs from January to March, and a secondary pupping season occurs in late summer and early fall (Riedman *et al.* 1994). Parental care is provided solely by the female.

Status and Distribution of Affected Species

Southern sea otters are listed as threatened under the Endangered Species Act of 1973, as amended (ESA), and because of their threatened status are automatically considered ''depleted'' under the MMPA. A final revised recovery plan for the southern sea otter was published in 2003 (68 FR 16305). The State of California also recognizes the southern sea otter as a fully protected mammal (Fish and Game Code section 4700) and as a protected marine mammal (Fish and Game Code section 4500).

All members of the southern sea otter population are descendants of a small group that survived the fur trade near Big Sur, California. Historically ranging from at least as far north as Oregon (Valentine *et al.* 2008) to Punta Abreojos, Baja California, Mexico, in the south, southern sea otters currently occur in only two areas of California. The mainland population ranges from San Mateo County in the north to Santa Barbara County in the south and numbers approximately 2,800 animals (the 3-year running average based on the spring 2012 census is 2,792) (*http://www.werc.usgs.gov/Project.aspx?ProjectID=91*). A small translocated population occurs at San Nicolas Island, numbering approximately 50 independent animals as of 2012 (USGS unpublished data). Data from recent years suggest that southern sea otter population numbers overall are stable or slightly declining.

Southern sea otter abundance varies considerably across the range, with the highest densities occurring in the center part of the range (Monterey peninsula to Estero Bay), where they have been present for the longest. Densities tend to be most stable from year to year in rocky, kelp-dominated areas that are primarily occupied by females, dependent pups, and territorial males. In contrast, sandy and soft-bottom habitats (in particular Monterey Bay, Estero Bay, and Pismo Beach to Pt. Sal) tend to be occupied by males and sub-adult animals of both sexes (but rarely by adult females and pups) and are more variable in abundance from year to year. This variation is apparently driven in part by the long-distance movements and seasonal redistribution of males (Tinker *et al.* 2006b). The variability of counts at the south end of the range is also related to the seasonal movements of males migrating to the range peripheries during the winter and early spring (Tinker *et al.* 2006a, Tinker *et al.* 2006b).

Standardized range-wide counts of southern sea otters were initiated in 1982. Census and distribution data are available from the U.S. Geological Survey Western Ecological Research Center at *http://www.werc.usgs.gov/ProjectSubWebPage.aspx?SubWebPageID=4&ProjectID=91*. These data include various density estimates delineated by polygons along the central California coast from shore to the 30-m (98-ft) depth contour and between the 30-m (98-ft) and 60-m (197-ft) depth contours. Based on these density estimates, Padre Associates calculated average sea otter densities for survey box areas 2 and 4 and the associated 160 dB re 1 μPa exposure areas that comprise the project footprint: 1.07 and 1.7 sea otters/km^2 (2.77 and 4.4 sea otters/mi^2), respectively.

Potential Impacts of the Proposed Seismic Survey on Sea Otters

Disturbance Reactions

Little is known regarding the effects of sound on sea otters. Sea otters have not been reported as being particularly sensitive to sound disturbance, especially in comparison to other marine mammals. For instance, Riedman (1983, 1984) observed the behavior of sea otters along the California coast during single, 100-in^3 air gun pulses and pulses from a 4,089-in^3 air gun array. The air gun array produced low-frequency (5–500-Hertz [Hz]) sounds at 230 dB re 1 μPa at 1 m. No disturbance reactions were evident when the air gun array was as close as 0.9 km (0.5 mi), and the sea otters did not respond noticeably to the single air gun. The proposed seismic survey air gun array has an air discharge volume of approximately 3,300 in^3, a dominant frequency of 0–188 Hz, and a source output (downward) of 252 dB re 1 μPa at 1 m.

Underwater sounds are not likely to affect sea otters at the surface, due to the pressure release effect. Thus, the susceptibility of sea otters to disturbance from underwater sounds is probably restricted to behaviors during which the head is submerged, such as during foraging dives and underwater swimming and, intermittently, during grooming bouts. Yeates *et al.* (2007) reported the following mean percent activity categories for six adult male

California sea otters: Feeding (36.3), resting (40.2), swimming (8.5), grooming (9.1), and other (7.3). In a study with a much larger sample size, Tinker *et al.* (2008) reported that central California sea otters spent approximately 40 percent of their time foraging. Because underwater behaviors constitute less than half of the total activity budget of southern sea otters along the central California coast, their exposure to underwater sounds is limited. Nevertheless, the disruption of underwater behaviors may result in the disruption of the entire activity budget of an exposed individual and, potentially, in the disturbance of associated individuals. In the case of the proposed seismic survey, which consists of multiple parallel closely spaced transect lines, with a time for one complete circuit of 14.94 hours (survey box area 2) or 6.78 hours (survey box area 4), it is virtually certain that any sea otter engaging in surface behaviors during one pass of the vessel would be engaging in underwater behaviors during a subsequent pass of the vessel. Therefore, all sea otters that remained in the area would ultimately be exposed to underwater sound associated with the seismic survey.

Observed sea otter responses to disturbance are highly variable, probably reflecting the level of noise and activity to which they have been exposed and become acclimated over time and the particular location and social or behavioral state of that individual (G. Bentall, Monterey Bay Aquarium Sea Otter Research and Conservation Program, pers. comm.). Reactions to anthropogenic noise can be manifested as visible startle responses, flight responses (flushing into water from haulouts or ''splash-down'' alarm behavior in surface-resting rafts), changes in moving direction and/or speed, changes in or cessation of certain behaviors (such as grooming, socializing, or feeding), or avoidance of areas where noise sources are located.

The biological significance of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification would be expected to be biologically significant if the change affected growth, survival, or reproduction. Potentially significant behavioral modifications include:

- Disturbance of resting sea otters
- Marked disruption of foraging behaviors
- Separation of mothers from pups
- Disruption of spatial and social patterns (sexual segregation and male territoriality)

Currently, NMFS uses 160 dB re 1 μPa at received level for impulse noises (such as air gun pulses) as the onset of behavioral harassment (Level B harassment) for all marine mammals that are under its jurisdiction, and 180 dB re 1 μPa at received level as the threshold for potential injury or permanent physiological damage (Level A harassment) for cetaceans (70 FR 1871, January 11, 2005). In the absence of data on which to base thresholds specific to sea otters, we utilize the 160 dB re 1 μPa and 180 dB re 1 μPa thresholds for Level B and Level A harassment of sea otters. Based on the 160 dB re 1 μPa exposure area for survey box areas 2 and 4 and the average densities of sea otters in these areas, we estimate that approximately 352 sea otters will be exposed to underwater sound levels of 160 dB re 1 μPa or greater (Table 2). Note that because survey box areas 2 and 4 overlap, the total number of sea otters expected to be exposed to this level of sound is less than the sum of the numbers of sea otters in the 160 dB re 1 μPa exposure areas for survey box areas 2 and 4. In the overlapping area, sea otters will be subject to sound exposures associated with both survey box areas. Because limited evidence suggests that sea otters are less suceptible to acoustic disturbance than other marine mammals, these thresholds may be overly conservative. If, during implementation of the project, sea otters appeared to be undisturbed by sound to the extent that the exclusion zone (see *Mitigation Measures* below) could not be successfully kept clear of sea otters, the applicant would have the option under the IHA to request that the Service approve a reduction of the exclusion zone radius. We would review the request and notify the applicant of our determination.

TABLE 2—ESTIMATED NUMBER OF SEA OTTERS EXPOSED TO UNDERWATER SOUND LEVELS OF 160 dB RE 1 μPA OR GREATER

Survey box	Portion of 160 dB exposure area (km^2) affecting sea otter population	Number of sea otters/ km^2	Number of sea otters in 160 dB exposure area
2	245	1.07	261
4	155	1.70	263
2 and 4 merged	288	1.22	352

Hearing Impairment and Other Physical Effects

Exposure to very strong sounds could affect southern sea otters physically in a number of ways. These include temporary threshold shift (TTS), which is short-term hearing impairment, and permanent threshold shift (PTS), which is permanent hearing loss. Non-auditory physical effects may also occur in southern sea otters exposed to strong underwater pulsed sound. Non-auditory physiological effects or injuries that may theoretically occur in mammals close to a strong sound source include stress, neurological effects, and other types of organ or tissue damage. However, there is no definitive evidence that any of these effects occur in sea otters, even those in close proximity to large arrays of air guns. It is unlikely that any effects of these types would occur during the present project given the brief duration of exposure of any given sea otter and the planned monitoring and mitigation measures. The following subsections discuss in more detail the possibilities of TTS, PTS, and non-auditory physical effects.

Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter 1985). While an animal is experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. It is a temporary phenomenon, and (especially when mild) is not considered physical damage or ''injury'' (Southall *et al.* 2007). Rather, the onset of TTS is an indicator that, if the animal is exposed to higher levels of that sound, physical damage is ultimately a possibility.

The magnitude of TTS depends on the level and duration of noise exposure and, to some degree, on frequency, among other considerations (Kryter 1985; Richardson *et al.* 1995; Southall *et*

al. 2007). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity recovers rapidly after exposure to the noise ends. In terrestrial mammals, TTS can last from minutes or hours to days. Only limited data have been obtained on sound levels and durations necessary to elicit mild TTS in marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound during operational seismic surveys (Southall *et al.* 2007).

Permanent Threshold Shift (PTS)

When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness. In other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter 1985). There is no specific evidence that exposure to pulses from air guns can cause PTS in any marine mammal, even with large arrays of air guns. However, given the possibility that mammals close to an air gun array might incur at least mild TTS in the absence of appropriate mitigation measures, there has been further speculation about the possibility that some individuals in very close proximity to air guns might incur PTS (*e.g.,* Richardson *et al.* 1995; Gedamke *et al.* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS might elicit PTS.

Vessel Collision Effects

Boat strikes are a relatively low but persistent source of sea otter mortality. During the 2006–2010 period, 11 sea otters were suspected to have been struck by boats (USGS and CDFG unpub. data). However, vessel strikes involving sea otters appear primarily to involve small, fast boats, and most collision reports have come from small vessels (NMFS 2003; NMFS 2006). Because sea otters spend a considerable portion of their time at the surface of the water, they are typically visually aware of approaching boats and are able to move away if the vessel is not traveling too quickly. The noise of approaching boats provides an additional warning. Because the R/V *Marcus G. Langseth* and associated scout boats would be traveling relatively slowly (4.5 knots), it is unlikely that sea otters would suffer injury or death from a vessel collision.

Potential Impacts on Habitat

The proposed seismic survey would not result in any known impacts on the habitats used by southern sea otters or the food sources they exploit. The main impact of the project would be temporarily elevated noise levels. Although approximately 11.5 percent of the mainland southern sea otter range would eventually be ensonified to sound levels of 160 dB re 1 μPa or greater by the time the survey was completed, only one circular area with a radius of approximately 6.2 km (3.9 mi) would be ensonified to these levels or greater at any one time.

Preliminary biological surveys have been completed for the areas where marine geophone lines are proposed to be placed to ensure they are routed along corridors that minimize contact with rock substrates, kelp canopy areas, and seagrass beds. In areas where such habitats are unavoidable due to their contiguous distribution along the coastline, the placement and recovery of the small geophone units in potentially sensitive areas would be done by divers/remotely operated vehicles (ROVs) deployed from small vessels in such a way as to minimize any potential effects and to ensure that no sea otter habitat is permanently altered. All deployment and recovery operations would be conducted during daylight hours and monitored by an onboard Protected Species Observer (PSO).

Potential Impacts on Subsistence Needs

The subsistence provision of the MMPA does not apply to southern sea otters.

Mitigation Measures

Efforts were made during the initial project planning phase to identify the minimum energy source level needed for data collection and thereby to minimize the sound impacts to the marine environment, to reduce the area of the survey to only the area necessary for critical data collection, and to consider and plan around marine biological resources/life functions (such as presence, breeding, feeding, and migration) in the survey area.

PG&E and LDEO are proposing the following mitigation measures to reduce the potential effects of the project on southern sea otters resulting from air guns and vessel activities:

- PG&E would conduct an aerial survey approximately 1 week prior to the start of the seismic survey to obtain pre-survey information on the numbers and distribution of southern sea otters in the seismic survey area. Weekly aerial surveys would also be conducted throughout the survey program. Survey routes would be adjusted as feasible to avoid concentrations of sea otters,
- Protected Species Observers (PSOs) (NMFS-certified and Service-approved) would be stationed on the primary survey vessel and on the support and scout vessels. PSOs would also be present on vessels involved in the deployment and recovery of marine geophones,
- PSOs would visually monitor sea otters within the designated survey exclusion (180 dB re 1 μPa) and safety (160dB re 1 μPa) zones during all daylight hours,
- If one or more sea otters were observed near the exclusion zone and appeared to be about to enter it, avoidance measures would be taken, including decreasing vessel speed or implementing a power down,
- If one or more sea otters were observed within the exclusion zone, the air gun arrays would be shut down within several seconds. The PSO would then maintain a watch to determine when the sea otter(s) appeared to be outside the exclusion zone such that air gun operations could resume,
- Power-up, ramp-up, and shut-down procedures would be implemented during all air gun operations,
- A mitigation air gun (a continuously operated, low-volume, single air gun versus all eighteen) would be used during survey turns outside of the 3D survey area as well as during power-down and standby periods to deter marine wildlife from re-entering the exclusion zone,
- During nighttime operations, whenever the vessel survey tracks were located inshore of the 40-meter depth contour (where physical encounters with sea otters are more likely), PSOs would visually monitor the area forward of the survey vessel with the aid of infra-red (night vision) goggles/binoculars and the forward-looking infra-red (FLIR) system available onboard the R/V *Marcus G. Langseth.*

Mitigation measures, such as avoidance or power-downs/shut-downs, would be implemented if a sea otter were detected in the path of the survey vessel.

Findings

The Service proposes the following findings regarding this action:

Small Numbers Determination and Estimated Take by Incidental Harassment

For small take analysis, the statute and legislative history do not expressly require a specific type of numerical analysis, leaving the determination of ''small'' to the agency's discretion. Factors considered in our small numbers determination include the following:

(1) *The number of southern sea otters inhabiting the proposed impact area is*

small relative to the size of the southern sea otter population. The number of southern sea otters that could potentially be taken by harassment in association with the proposed activity is 352, less than 13 percent of the estimated population size of 2,792.

(2) *The area where the activity would occur is small relative to the range of the southern sea otter.* The combined footprint of survey box areas 2 and 4 is 631 km² (244 mi²) and the portion of this combined footprint within sea otter range is 4.7 km² (1.8 mi²), whereas the southern sea otter range encompasses approximately 1,346 km² (519.7 mi²). Therefore, the survey footprint would affect less than 0.4 percent of the total range of the southern sea otter, and exposure to the 160 dB sound levels would occur in less than 12 percent of the total range of the southern sea otter. Additionally, it should be noted that only one circular area, with a radius of approximately 6.2 km (3.9 mi), would be ensonified to these levels or greater at any one time.

(3) *Monitoring requirements and mitigation measures are expected to limit the number of incidental takes.* Level A harassment (harassment that has the potential to injure southern sea otters) is not authorized. PSOs would ensure that sea otters are not exposed to sounds or activities that may result in Level A harassment. PSOs would be present during all daylight survey activities and would have the authority to order a power-down or shut-down of the seismic air guns, and/or redirect survey activities to avoid observed sea otters if sea otters appeared to enter or approach the 180 dB re 1 μPa exclusion zone. If a sea otter were observed within or approaching the 180 dB re 1 μPa exposure area of 1,010 m (0.63 mi), avoidance measures would be taken, such as decreasing the speed of the vessel and/or implementing a power-down or shut-down of the air guns. Nighttime monitoring would be conducted with the aid of night-vision binoculars and a FLIR system when the R/V *Marcus G. Langseth* was inshore of the 40-m (131-ft) depth contour. All nearshore vessel operations associated with marine geophone placements would be monitored by PSOs. Power-up and ramp-up procedures would prevent Level A harassment and limit the number of incidental takes by Level B harassment by affording time for sea otters to leave the area. Monitoring and mitigation measures are thus expected to prevent any Level A harassment and to minimize Level B harassment.

It should be noted that if sea otters appeared to be undisturbed by sound to the extent that the exclusion zone could not be successfully kept clear of sea otters, the applicant would have the option to request that the Service approve a reduction of the exclusion zone radius. We would review the request and notify the applicant of our determination. Our approval would not constitute authorization of Level A harassment. Rather, our approval would be based on a determination, following review of information on sea otter behavior obtained through required monitoring during the survey, that a smaller exclusion zone would avoid Level A harassment.

Negligible Impact

The Service finds that any incidental ''take by harassment'' that may result from this proposed seismic survey cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival, and would, therefore, have no more than a negligible impact on the stock. In making this finding, we considered the best available scientific information, including (1) The biological and behavioral characteristics of the species, (2) the most recent information on distribution and abundance of sea otters within the area of the proposed activity, (3) the potential sources of short-term disturbance during the proposed activity, and (4) the potential response of southern sea otters to this short-term disturbance.

Limited evidence (Riedman 1983, 1984) suggests that sea otters are not particularly sensitive to or adversely affected by sound. Responses of sea otters to disturbance would most likely be diving and/or swimming away from the sound source, which may entail the temporary, but not sustained, interruption of foraging, breeding, resting, or other natural behaviors. Thus, although 352 sea otters (approximately 13 percent of the mainland population) are estimated to be potentially taken (*i.e.,* potentially disturbed) by Level B harassment by means of exposure to sound levels of 160dB re 1 μPa or greater over the duration of the project, we do not expect that this type of harassment would result in adverse effects on the species through effects on annual rates of recruitment or survival. In order to verify this conclusion, we have recommended that an ancillary scientific study be conducted during the survey and afterwards to detect effects on individual sea otters and any potential changes in annual rates of recruitment and survival among sea otters exposed to sound. PG&E and LDEO have agreed to arrange, with input from the Service, for this study and subsequent analysis (see ''Marine Mammal Monitoring'' below). The preliminary results of this study will be included in our analysis should the applicant request incidental harassment authorization for survey box area 1 in 2013.

The mitigation measures outlined above are intended to minimize the number of sea otters that may be disturbed by the proposed activity. Any impacts on individuals are expected to be limited to Level B harassment and to be of short-term duration. No take by injury or death is anticipated or authorized. Should the Service determine, based on the monitoring and reporting to be conducted throughout the survey activities, that the effects are greater than anticipated, the authorization may be modified, suspended, or revoked.

Our finding of negligible impact applies to incidental take associated with the proposed activity as mitigated through this authorization process. This authorization establishes monitoring and reporting requirements to evaluate the impacts of the authorized activities, as well as mitigation measures designed to minimize interactions with, and impacts to, southern sea otters.

Impact on Subsistence

The subsistence provision of the MMPA does not apply to southern sea otters.

Marine Mammal Monitoring

The applicant would be required to conduct monitoring of southern sea otters during the seismic surveys in order to implement the mitigation measures that require real-time monitoring and to satisfy monitoring required under the MMPA. Project personnel would be required to record information regarding location and behavior of all sea otters observed during operations. When conditions permitted, information regarding age (pup, independent) and tag color and position (for flipper-tagged animals) would also be required to be recorded.

Due to the lack of data on the effects of air guns on sea otters, in addition to project-related mitigation monitoring, the Service has recommended that PG&E and LDEO use the survey as an opportunity to investigate the potential effects of air guns on sea otters. PG&E and LDEO have agreed to address this request by arranging, with input from the Service, for the design and implementation of an ancillary scientific study during and after the survey and subsequent analysis. The study would be conducted by

researchers with the appropriate scientific expertise and permits (USGS, Biological Resources Division, in cooperation with the California Department of Fish and Game and other research partners). The Sea Otter Monitoring Program is described in Appendix E to the revised IHA application. To supplement data obtained by researchers from bottom-mounted passive acoustic recorders placed in and near kelp beds used by resident sea otters, PG&E and LDEO would provide researchers with GPS-referenced time data for the air gun shots from the seismic survey vessel. These data would be used to validate the acoustic modeling underlying the 160 dB re 1 μPa safety zone and 180 dB re 1 μPa exclusion zone radii, to measure the propagation of sound through sea otter habitat, and to estimate received sound levels that may be useful in determining sea otter behavioral response thresholds as a function of sound exposure.

Monitoring and Reporting

The applicant would be required to implement the following monitoring and reporting program to increase knowledge regarding the species and to assess the level of take caused by the proposed action:

a. Pre-Activity Monitoring

Approximately 1 week prior to the start of seismic survey operations, an aerial survey would be flown to establish a baseline for numbers and distribution of southern sea otters in the project area;

b. Activity Monitoring

Vessel-based monitoring for marine wildlife, including southern sea otters, would be done by trained PSOs throughout the period of survey activities. PSO duties would include watching for and identifying marine mammals; recording their numbers, distances, and any reactions to the survey operations; and documenting potential ''take by harassment'' as defined by the Service and NMFS.

A sufficient number of PSOs would be required onboard the survey and support vessels to meet the following criteria:

• 100-percent monitoring during all periods of survey operations (visual everywhere during daylight and inshore of the 40-m contour at night); and

• A maximum of four consecutive hours on watch per PSO.

PSO teams would consist of Service- and NMFS-approved PSOs and experienced field biologists. An experienced crew leader would supervise the PSO team onboard the survey vessels. Crew leaders and biologists serving as PSOs would be individuals with experience as PSOs during high-energy survey projects (HESS), and/or shallow hazards surveys in California.

PSOs would be required to have previous marine mammal observation experience, and field crew leaders would be highly experienced with previous vessel-based marine mammal monitoring and mitigation projects. Resumes for those individuals would be provided to the Service and NMFS for review and acceptance of their qualifications. PSOs would be familiar with the region and the marine mammals of the area and would complete an in-house observer training course designed to familiarize individuals with monitoring and data collection procedures.

The PSOs would watch for marine mammals from the best available vantage point on the survey vessels, typically the PSO tower on the R/V *Marcus G. Langseth,* or from dedicated monitoring vessels. The PSOs would scan systematically with the unaided eye and with binoculars. Personnel on the bridge of the survey and monitoring vessels would assist the PSOs in watching for marine mammals.

Information recorded by PSOs would include:

• Species, group size, age/size/gender (if determinable), behavior when first sighted and after initial sighting, heading (if determinable), bearing and distance from observer, apparent reaction to activities (*e.g.,* none, avoidance, approach, paralleling, *etc.*), closest point of approach, and pace;

• Time, location (GPS coordinates), sea state, visibility, sun glare, and speed and activity of the vessel, and

• Positions of other vessel(s) in the vicinity of the observer location.

The ship's position, speed of the vessel, water depth, sea state, visibility, and sun glare would also be recorded at the start and end of each observation watch, every 30 minutes during a watch, and whenever there were substantial changes in any of those variables.

If a southern sea otter were seen within the exclusion zone, the geophysical crew would be notified immediately so that the mitigation measures called for in the applicable authorization(s) could be implemented. The air gun arrays would be shut down within several seconds. The PSO would then maintain a watch to determine when the sea otter(s) appeared to be outside the exclusion zone such that air gun operations could resume.

Aerial surveys would be conducted weekly during seismic survey operations to assist in the identification and avoidance of southern sea otters within the project area;

c. Post-Activity Monitoring

Approximately 1 week prior to the completion of the offshore seismic survey operations, a final aerial survey would be conducted to document the number and distribution of southern sea otters in the project area. These data would be used in comparison with original survey data collected prior to the seismic operations.

No post-activity monitoring is proposed.

d. Reporting

Throughout the survey program, PSOs would prepare a report each week summarizing the recent results of the monitoring program. The reports would summarize the numbers of sea otters sighted. These reports would be provided to the Service, PG&E, LDEO, and NSF.

The results of the vessel-based monitoring, including estimates of potential ''take by harassment,'' would be compiled in a report and submitted to the Service within 90 days of survey conclusion; the report would also be posted on the NSF Web site at: *http://www.nsf.gov/geo/oce/envcomp/index.jsp.* Reporting would address any requirements established by the Service and NMFS.

Along with any other State or Federal requirements, the 90-day report would minimally include:

• Summaries of monitoring effort: Total hours, total distances, and distribution of marine mammals through the study period accounting for sea state and other factors affecting visibility and detectability of marine mammals;

• Analyses of the effects of various factors influencing the detectability of marine mammals, including sea state, number of observers, and fog/glare;

• Species composition and occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender, and group sizes, and analyses of the effects of survey operations;

• Sighting rates of marine mammals during periods with and without air gun activities (and other variables that could affect detectability);

• Initial sighting distances versus air gun activity state (firing, powered down, or shut-down);

• Closest point of approach versus air gun activity state;

• Observed behaviors and types of movements versus air gun activity state;
• Numbers of sightings/individuals seen versus air gun activity state;
• Distribution around the survey vessel versus air gun activity state; and
• Estimates of ''take by harassment''.

Endangered Species Act

The southern sea otter is currently listed as threatened under the Endangered Species Act of 1973, as amended (ESA). Because the proposed activities may affect the southern sea otter, pursuant to section 7(a)(2) of the ESA, the Service must ensure that its issuance of the IHA will not jeopardize the species. In addition, the NSF must ensure that its provision of the R/V *Marcus G. Langseth* will likewise not jeopardize the southern sea otter. To address the obligations of both the Service and NSF pursuant to section 7(a)(2) of the ESA, the Service has initiated internal formal consultation on issuance of an IHA, and the NSF has initiated formal consultation with the Service for its action of providing the R/V *Marcus G. Langseth* for the survey. These consultations will be addressed in a single biological opinion. The biological opinion will consider the effects of the project on the southern sea otter, including our issuance of an IHA. The biological opinion will be issued prior to the decision on the IHA.

National Environmental Policy Act (NEPA)

The seismic survey is described in the Draft EA prepared by the applicant under the supervision of the NSF, the lead Federal agency. If we find it to be adequate and appropriate, we will adopt the Draft EA as the Service's Environmental Assessment (EA) of whether issuance of the IHA would have a significant effect on the human environment. Our analysis will be completed prior to issuance or denial of the IHA and will be available at *http://www.fws.gov/ventura/speciesinfo/*. To obtain a copy of the Draft EA, contact the individual identified in the **FOR FURTHER INFORMATION CONTACT** section.

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, Secretarial Order 3225, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with Federally recognized Tribes on a Government-to-Government basis. We have evaluated possible effects on federally recognized Indian Tribes and have determined that there are no effects.

Proposed Authorization

The Service proposes to issue an IHA for southern sea otters harassed incidentally by the applicant in the course of conducting seismic surveys beginning October 15, 2012, and ending December 31, 2012. Mobilization could begin as early as October 15, but sound source verification procedures and active air gun surveys would start no earlier than November 1. Authorization for incidental take beyond this time period would require a new request. The final IHA, if issued, will incorporate the mitigation, monitoring, and reporting requirements discussed in this proposal. The applicant would be responsible for following those requirements. If the level of activity exceeded that described by the applicant, or the level or nature of take exceeded those projected here, the Service would reevaluate its findings. Conversely, if sea otters appeared to be undisturbed by sound to the extent that the exclusion zone could not be successfully kept clear of sea otters, the applicant would have the option to request that the Service approve a reduction of the exclusion zone radius. We would review the request and notify the applicant of our determination. The Secretary would have the ability to modify, suspend, or revoke this authorization if the findings were not accurate or the conditions described in this notice were not being met. Should the applicant request incidental harassment authorization for survey box area 1 in 2013, the Service will re-analyze the small numbers and negligible impact determinations, which would include an evaluation of the information gained through the monitoring and reporting requirements proposed in this IHA, and make a new finding at that time.

Request for Public Comments

The Service requests interested parties to submit comments and information concerning this proposed IHA. Consistent with section 101(a)(5)(D)(iii) of the MMPA, we are opening the comment period on this proposed authorization for 30 days (*see* **DATES**).

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.

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Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region.

[FR Doc. 2012–23749 Filed 9–24–12; 11:15 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–19525–A, F–19525–C, F–19525–A2, F–19525–B2; LLAK965000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to Council Native Corporation. The decision approves only the surface estate in the lands described below for conveyance pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq*). The subsurface estate in these lands will be conveyed to Bering Straits Native Corporation when the surface estate is conveyed to Council Native Corporation. The lands are in the vicinity of Council, Alaska, and are located in: Lot 1, U.S. Survey No. 9993, Alaska.

Containing 129.97 acres.

Kateel River Meridian, Alaska

T. 5 S., R. 24 W.,
Tract A.

Containing 1,242.28 acres.

T. 6 S., R. 24 W.,
Secs. 6, 21, 22, 28, and 33.

Containing 3,164.08 acres.

T. 6 S., R. 25 W.,
Tracts Q, R, and S;
Tracts T, X, and Z.

Containing approximately 1,683 acres.
Aggregating approximately 6,219 acres.

Notice of the decision will also be published four times in the *Nome Nugget.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until October 26, 2012 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

3. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by email at *ak.blm.conveyance@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 BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM

will reply during normal business hours.

Eileen Ford,

Land Transfer Resolution Specialist, Land Transfer Adjudication II Branch.

[FR Doc. 2012–23655 Filed 9–25–12; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000–L14300000–ET0000; HAG–12–0183; OROR–47552]

Public Land Order No. 7802; Extension of Public Land Order No. 6944; 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. 6944 for an additional 20-year period. The extension is necessary to continue protection of the cultural and historical values of the Granite Chinese Walls Historic Site, which would otherwise expire on September 30, 2012.

DATES: *Effective Date:* October 1, 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 Granite Chinese Walls Historic Site in the Wallowa-Whitman National Forest. The withdrawal extended by this order will expire on September 30, 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. 6944 (57 FR 45321 (1992)), which withdrew approximately 43.75 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 Granite Chinese Walls Historic Site, is hereby extended for an additional 20-year period until September 30, 2032.

Dated: September 13, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–23654 Filed 9–25–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–EQD–11325; 1500–BASE–SZB]

Information Collection Activities: Timpanogos Cave National Monument Visitor and Community Survey

AGENCY: National Park Service (NPS), Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the Information Collection (IC) described below. This collection will consist of a survey and a focus group script that will be used to collect visitors and local community members' perceptions and evaluations of four management issues (1) Cave tour size and frequency; (2) ticketing procedure and fees; (3) concession service quality and selection; and (4) safety concerns on park trails. As required by the Paperwork Reduction Act of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC.

DATES: Please submit your comments on or before November 26, 2012.

ADDRESSES: Please send your comments to Phadrea Ponds, Information Collections Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–NEW, *TICA* in the subject line.

FOR FURTHER INFORMATION CONTACT: Jim Ireland, Superintendent at *Jim_Ireland@nps.gov* (email); or by mail at RR3, Box 200, American Fork, UT 84003.

I. Abstract

The National Park Service (NPS) will conduct a study at Timpanogos Cave National Monument. The study consists of a survey and a focus group using a random sample of visitors and residents of the communities surrounding the park. The collection will be used to understand visitors and local resident's perceptions and evaluations of the following management issues:

(1) Cave tour size and frequency.

(2) Ticketing process and fees.

(3) Concession service quality and selection.

(4) Safety concerns and user conflict while using park trails.

The information from this collection will provide NPS managers and planners with visitors and community members' perceptions of how each of the above management issue affects their overall quality of visit experience. Visitors' opinions about cave tour size and frequency as well as the ticketing process will be incorporated with ecological survey data to determine the most appropriate resource management strategy that balance between protection of the cave and visitor experience. Other information such safety concerns and concession services will be used in park management planning to determine appropriate management actions. Data collected will also be used in interpretive planning document to improve overall visit experience.

II. Data

OMB Control Number: 1024–NEW.

Title: Timpanogos Cave National Monument Visitor and Community Survey.

Type of Request: This is a new collection.

Affected Public: Park Visitors and Local Residents.

Respondent Obligation: Voluntary.

Frequency of Collection: One time.

Estimated Number of Annual Responses: 1,460.

	Estimate number of responses	Completion time (minutes)	Annual burden hours
Survey	1,400	15	350
Focus group	60	90	90
Total	1,460	115	440

Annual Burden Hours: 440 hours. We expect to receive 1,460 annual responses (1,400 surveys and 60 focus group participants). We estimate an average of 15 minutes to complete a survey instrument (1,400 × 15 minutes = 350 hours), an average of 90 minutes per focus group session (60 × 90 minutes = 90 hours).

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None.

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 and current expiration date.

III. Request for Comments

We invite comments concerning this ICR on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 20, 2012.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2012–23671 Filed 9–25–12; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[WASO–NRSS–BRMD–11317; 2340–NYS]

Proposed Information Collection; Comment Request: NPS Institutional Animal Care and Use Committee (IACUC) General Submission, Annual Review, and Exhibitor Forms

AGENCY: National Park Service (NPS), Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. This collection currently consist of three forms (General Submission, Annual Renewal, Exhibitor Submission) used by the Institutional Animal Care and Use Committee (NPS IACUC/the Committee) to ensure compliance with the Animal Welfare Act (AWA), its regulations (AWAR), and the Interagency Research Animal Committee (IRAC) principles for projects involving the use of vertebrate animals in research, teaching, and/or exhibition. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other federal agencies to comment on this IC. The PRA (44 U.S.C. 3501, et seq.) provides that we may not conduct or sponsor and a person is not required to respond to, a collection unless it displays a currently valid OMB control number and current expiration date.

DATES: Please submit your comment on or before November 26, 2012.

ADDRESSES: Please send your comments to the IC to Phadrea Ponds, Information Collections Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–NEW, *NPS IACUC* in the subject line.

FOR FURTHER INFORMATION CONTACT: Jordan Spaak, NPS IACUC Administrator by mail at Biological Resource Management Division 1201 Oakridge Drive, Suite 200 Fort Collins, CO 80525 or *Jordan_Spaak @nps.gov* (email). You may also contact John Bryan at *John_Bryan@nps.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Abstract

All research, teaching, and exhibition projects involving vertebrate animals taking place on NPS territories must be approved by the NPS IACUC prior to their commencement. Principal Investigators (PI) are required to submit the completed General Submission, Annual Renewal, or Exhibitor Submission as required for approval to the NPS IACUC Office.

II. Data

OMB Control Number: None. This collection is currently in use without an OMB Control Number.

Title: NPS Institutional Animal Care and Use Committee (IACUC) General Submission Form.

Type of Request: New.

Affected Public: General public. Anyone involved in research, teaching, and exhibition projects involving vertebrate animals in NPS units.

Respondent's Obligation: Mandatory.

Frequency of Collection: One-time, on occasion.

Estimated Annual Number of Respondents: 75.

Estimated Total Annual Burden Hours: 450 hours. We expect to receive 75 annual responses. We estimate an average of 6 hours per response.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None

III. Request for Comments

We invite comments concerning this ICR on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are

a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 18, 2012.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2012–23674 Filed 9–25–12; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–NIFA–11324: 4533–685]

Notice of Niagara Falls National Heritage Area Commission Meeting Closure

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting closure.

SUMMARY: Notice is hereby given for the partial closure of the September 26, 2012, meeting of the Niagara Falls National Heritage Area Commission. The federally appointed Commission serves as the guiding body for Niagara Falls National Heritage Area.

DATES: The Commission will meet on Wednesday, September 26, 2012, at 9:30 a.m. (Eastern).

ADDRESSES: The meeting will take place at Niagara University's Bisgrove Hall, Room 250. The University is located at 5795 Lewiston Road, Niagara University, New York 14109. Parking is limited on campus but readily available in the eastern lots of the Power Vista.

FOR FURTHER INFORMATION ON MEETING CONTACT: Debbie Conway, Superintendent, Fort Stanwix National Monument, 112 East Park St., Rome, New York 13440; telephone (315) 336–3113.

Proposed SRC Meeting Agenda

The proposed meeting agenda includes the following:

1. Public Comments.
2. Executive Session.
3. Review of August 29, 2012 Minutes.
4. Committee Reports.
5. Project Updates.
6. Presentation by Lewiston Web Solutions.
7. Adjourn Meeting.

The meeting is open to the public and will have time allotted for public testimony. Public comments will be heard at the beginning of the meeting and will be limited to 5 minutes per person. 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.

Debbie Conway,

Superintendent, Fort Stanwix National Monument and Designated Federal Official for the Commission.

[FR Doc. 2012–23692 Filed 9–25–12; 8:45 am]

BILLING CODE 4310–D2–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Extension of Post-Sale Evaluation Period for Consolidated Central Gulf of Mexico Planning Area Lease Sale 216/222

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice to extend post-sale evaluation period.

SUMMARY: This notice extends through October 18, 2012, the post-sale evaluation period for Consolidated Central Gulf of Mexico Planning Area Lease Sale 216/222. BOEM will complete the evaluation process for all bids received in this sale by October 18, 2012. This action is necessary due to the temporary closure of the BOEM Regional Office building in New Orleans and other effects of the recent hurricane impacting the region.

DATES: The post-sale evaluation period for this sale will conclude on October 18, 2012.

SUPPLEMENTARY INFORMATION: In connection with the Consolidated Central Gulf of Mexico Lease Sale 216/222, held June 20, 2012, BOEM received 593 bids on 454 tracts. On July 10, 2012, the high bids on 63 tracts were accepted and bids on another 391 tracts were passed to Phase 2 of the post-sale evaluation period for detailed evaluation. As of September 14, 2012, BOEM had completed the evaluation and deemed acceptable the high bids offered on 203 of the tracts passed to Phase 2. BOEM is continuing the evaluation process of bids for the remaining 188 tracts.

On August 27, 2012, BOEM personnel reported to work to carry out activities outlined in the Bureau of Safety and Environmental Enforcement and Bureau of Ocean Energy Management Gulf of Mexico Region Emergency/Hurricane Preparedness Plan. Upon completion of the tasks, the Gulf of Mexico Regional Office building in New Orleans was closed at 3:00 p.m. local time. Many BOEM employees and their families evacuated the area ahead of the storm. On August 29, 2012, Hurricane Isaac made landfall along the northern Gulf Coast, just south of the New Orleans metropolitan area. Heavy rainfall and high winds caused flooding and damage to homes, businesses, and properties in the area. The New Orleans area experienced widespread power outages that affected nearly every resident. BOEM's Regional Office building in New Orleans received minor water damage to office space on 4 floors in the building, including offices occupied by key personnel directly involved in the post-sale evaluation process.

As a result of these extraordinary circumstances, BOEM requires additional time to complete the bid review process, originally scheduled to conclude within 90 days following the Sale 216/222 sale date, that is, by September 18, 2012. Under the provisions of 30 CFR 556.47(e)(2), BOEM is extending the bid evaluation period until October 18, 2012.

FOR FURTHER INFORMATION CONTACT: David Cooke, Regional Supervisor, Office of Resource Evaluation, Gulf of Mexico Region, telephone 504–736–2710.

Dated: September 18, 2012.

Walter D. Cruickshank,

Deputy Director, Bureau of Ocean and Energy Management.

[FR Doc. 2012–23678 Filed 9–25–12; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Notice of Availability of the Proposed Notice of Sale (NOS) for Central Gulf of Mexico Planning Area (CPA) Outer Continental Shelf (OCS) Oil and Gas Lease Sale 227 (CPA Sale 227)

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of Availability of the Proposed Notice of CPA Sale 227.

SUMMARY: BOEM announces the availability of the Proposed NOS for

proposed CPA Sale 227. This Notice is published pursuant to 30 CFR 556.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to Section 19 of the OCS Lands Act, provides affected States the opportunity to review the Proposed NOS. The Proposed NOS sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

DATES: Affected States may comment on the size, timing, and location of proposed CPA Sale 227 within 60 days following their receipt of the Proposed NOS. The Final NOS will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 20, 2013.

SUPPLEMENTARY INFORMATION: The Proposed NOS for CPA Sale 227 and a ''Proposed Notice of Sale Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

FOR FURTHER INFORMATION CONTACT: Donna Dixon, Leasing Division Chief, *Donna.Dixon@boem.gov*.

Dated: September 18, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–23689 Filed 9–24–12; 11:15 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for the Workforce Investment Act (WIA) Management Information and Reporting System; Extension With Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about the WIA Management Information and Reporting System (OMB Control No. 1205–0420, expiring 12/31/2012). This reporting system contains the individual record files on the WIA Adult, Dislocated Worker, Youth, and National Emergency Grant programs, the quarterly and annual reports on those programs (ETA 9090 and ETA 9091), as well as the customer satisfaction survey information reported by statutory measure States.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before November 26, 2012.

ADDRESSES: Submit written comments to Karen Staha, Office of Policy Development and Research, Room N–5641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–2917 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2766. Email: *Staha.Karen@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The accuracy, reliability, and comparability of program reports submitted by states using Federal funds are fundamental elements of good public administration, and are necessary tools for maintaining and demonstrating system integrity. The use of a standard set of data elements, definitions, and specifications at all levels of the workforce system helps improve the quality of performance information that is received by the Department. The common performance measures are an integral part of the Employment and Training Administration's (ETA) performance accountability system, and ETA will continue to collect from grantees the data on program activities, participants, and outcomes that are necessary for program management and to convey full and accurate information on the performance of workforce programs to policymakers and stakeholders.

There are three sets of changes that are being requested in the extension with revisions to the WIA Management Information and Reporting System. The first are changes to the Workforce Investment Act Standardized Record Data (WIASRD). The second are changes to the quarterly reports (ETA 9090), and the third are changes to the annual report (ETA 9091).

ETA is seeking to make two fundamental changes to the WIASRD. The first is to collect the information quarterly as opposed to annually. This quarterly collection was approved under 1205–0474; however, ETA is seeking to consolidate that collection into this collection as it contains the annual WIASRD. The aggregate American Recovery and Reinvestment Act monthly reports and the quarterly WIASRD collections were approved in 2009 and expired on 1/31/2012. The annual WIASRD collection will no longer be required as it is identical to the 4th quarter WIASRD file. Currently, ETA has separate approvals to collect the quarterly and annual WIASRD files even though the 4th quarter file is the same data file as the annual WIASRD. The second change to the WIASRD is the structure of the file. ETA is requesting permission to modify the WIASRD layout so as to make it completely compatible with the Workforce Investment Streamlined Reporting (WISPR) System individual record layout. The modified WIASRD layout will utilize the exact same variable definitions and data structures as the WISPR individual record layout rendering full scale WISPR implementation much more straightforward and less costly, should that occur at some point in the future. WISPR compatibility also has the advantage of collecting the veterans information necessary for reporting on priority of service for veterans, as well as for monitoring the performance of the Gold Card Initiative, TAP services, and post-9/11 veterans served under WIA.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension with revisions.

Title: WIA Management Information and Reporting System.

OMB Number: 1205–0420.

Affected Public: State governments.

Form(s): ETA–9090 and ETA–9091.

Total Annual Respondents: 53.

Annual Frequency: Quarterly.

Total Annual Responses: 530.

Average Time per Response: 959.5 hours.

Estimated Total Annual Burden Hours: 508,547.

Total Annual Burden Cost for Respondents: $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: Signed in Washington, DC, this 13th day of September 2012.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2012–23602 Filed 9–25–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''International Training Application.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before November 26, 2012.

ADDRESSES: Send comments to Amelia Vogel, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amelia Vogel, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS is one of the largest labor statistics organizations in the world and has provided international training since 1945. Each year, the BLS Division of International Technical Cooperation (DITC) conducts seminars of 1 to 2 weeks duration at its training facilities in Washington, DC. In addition to the annual international seminars, DITC provides technical assistance upon request and organizes visits to the BLS for many international visitors each year. The seminars bring together statisticians, economists, analysts, and other data producers and users from countries all over the world. Each seminar is designed to strengthen the participants' ability to collect and analyze economic and labor statistics.

II. Current Action

Office of Management and Budget clearance is being sought for the proposed extension of the International Training Application. Continuing the existing collection will allow the BLS to continue to conduct international seminars. No questions have been added or deleted on the form since the last Office of Management and Budget approval in 2009.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Extension.

Agency: Bureau of Labor Statistics.

Title: International Training Application.

OMB Number: 1220–0179.

Affected Public: Individuals or households.

Total Respondents: 100.

Frequency: On occasion.

Total Responses: 100.

Average Time per Response: 20 minutes.

Estimated Total Burden Hours: 34 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 20th day of September 2012.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2012–23683 Filed 9–25–12; 8:45 am]

BILLING CODE 4510–24–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange

Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213

Extension:

Rule 17Ad–17, OMB Control No. 3235–0469, SEC File No. 270–412.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17Ad–17 (17 CFR 240.17Ad–17) requires approximately 477 registered transfer agents to conduct searches using third party database vendors to attempt to locate lost security holders under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq*). These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. We estimate that the average number of hours necessary for each transfer agent to comply with Rule 17Ad–17 is five hours annually. The total burden is approximately 2,385 hours annually for all transfer agents. The cost of compliance for each individual transfer agent depends on the number of lost accounts for which it is responsible. Based on information received from transfer agents, we estimate that the annual cost industry-wide is $238,500.

Written 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 estimates 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: September 20, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23601 Filed 9–25–12; 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 Investor Advisory Committee will hold a meeting on Friday, September 28, 2012, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 10:00 a.m. (EDT) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:30 a.m. Visitors will be subject to security checks. The meeting will be Webcast on the Commission's Web site at *www.sec.gov*.

On September 7, 2012, the Commission issued notice of the Committee meeting (Release No. 33–9358), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes introductory remarks from Commissioners; introductory remarks from Committee officers; and reports from the four Investor Advisory Committee subcommittees (the Investor as Owner subcommittee, the Investor as Purchaser subcommittee, the Investor Education subcommittee, and the Market Structure subcommittee).

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: September 21, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23762 Filed 9–24–12; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67893; File No. SR–CBOE–2012–089]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

September 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2012, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. 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.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the Exchange assesses a Manual Appointment Change Request Fee (the ''Fee'') of $50.00 each time a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Trading Permit Holder (''TPH'') requests a change in the classes to which said TPH is appointed to act as a Market-Maker. This Fee serves to pay for the labor involved in processing such requests. Beginning on September 4, 2012, TPHs became responsible for maintaining their own Market-Maker appointments via the Exchange's online appointments system. TPHs received prior notification of this change.[3] Because TPHs now maintain their own Market-Maker appointments and the Exchange no longer processes requests to change the classes to which TPHs are appointed to act as Market-Makers, the Exchange hereby proposes to eliminate the Fee.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act5, which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. The proposed change is reasonable because TPHs will no longer have to pay a fee for changing their Market-Maker appointments, and is equitable and not unfairly discriminatory because it will apply to all TPHs.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[6] of the Act and paragraph (f) of Rule 19b–4[7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–2012–089 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–2012–089. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2012–089, and should be submitted on or before October 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23632 Filed 9–25–12; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* CBOE Regulatory Circular RG12–114 (August 16, 2012).

[4] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR [sic] 240.19b–4(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67894; File No. SR–BATS–2012–033]

Self-Regulatory Organizations; BATS Exchange, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade Shares of the iShares Short Maturity Bond Fund

September 20, 2012.

I. Introduction

On July 27, 2012, BATS Exchange, Inc. (''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the iShares Short Maturity Bond Fund (''Fund''). The proposed rule change was published for comment in the **Federal Register** on August 8, 2012.[3] The Commission received no comments on the proposal. On September 14, 2012, the Exchange filed Amendment No. 1 to the proposed rule change.[4] This order grants approval of the proposed rule change, as modified by Amendment No. 1.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67583 (August 2, 2012), 77 FR 47461 (''Notice'').

[4] Amendment No. 1 reflects a change to the name of the Fund, from ''iShares Ultrashort Duration Bond Fund'' to ''iShares Short Maturity Bond Fund,'' and a revision to the citation to the Registration Statement, a corresponding amendment to which was filed with the Commission on September 4, 2012. In Amendment No. 1, the Exchange states that all other representations in the proposed rule change remain as stated therein and no other changes are being made. Because Amendment No. 1 is technical in nature and does not materially alter the substance of the proposed rule change, Amendment No. 1 is not subject to notice and comment.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares of the Fund pursuant to BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by iShares U.S. ETF Trust (''Trust''), which was established as a Delaware statutory trust on June 21, 2011.[5] BlackRock Fund Advisors is the investment adviser (''Adviser'') to the Fund.[6] BlackRock Financial Management, Inc. serves as sub-adviser for the Fund (''Sub-Adviser'').[7] State Street Bank and Trust Company is the administrator, custodian, and transfer agent for the Trust. BlackRock Investments, LLC (''Distributor'') serves as the distributor for the Trust. The Exchange represents the Adviser and Sub-Adviser are both affiliated with multiple broker-dealers, and both the Adviser and Sub-Adviser have implemented fire walls with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio.[8]

Description of the Fund and the Shares

The Fund will seek to maximize current income. To achieve its objective, the Fund will invest, under normal circumstances,[9] at least 80% of its net assets in a diversified portfolio of U.S. dollar-denominated investment grade fixed income securities (''Fixed Income Securities''). The Fund will not be a money market fund and thus will not seek to maintain a stable net asset value of $1.00 per Share. In the absence of normal circumstances, the Fund may temporarily depart from its normal investment process, provided that such departure is, in the opinion of the portfolio management team of the Fund, consistent with the Fund's investment objective and in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in response to adverse market, economic, or political conditions.

The Fund will hold Fixed Income Securities of at least 13 non-affiliated issuers.

The Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of the Fund's investments in that industry would equal or exceed 25% of the current value of the Fund's total assets, provided that this restriction does not limit the Fund's: (i) Investments in securities of other investment companies; (ii) investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities; or (iii) investments in repurchase agreements collateralized by U.S. government securities.

The Fund intends to qualify each year as a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended. The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. The Fund will not invest in non-U.S. equity securities.

Fixed Income Securities

The Fund intends to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets in a diversified portfolio of U.S. dollar-denominated investment grade Fixed Income Securities, rated a minimum of BBB- or higher by Standard & Poor's Financial Services LLC and/or Fitch Inc., or Baa3 or higher by Moody's Investors Service, Inc., or, if unrated, determined by the portfolio management team of the Fund to be of equivalent quality.

Fixed Income Securities will primarily include fixed and floating rate debt securities of varying maturities, such as corporate[10] and government bonds, agency securities,[11] instruments of non-U.S. issuers, municipal bonds, money market instruments,[12] and investment companies that invest in such Fixed Income Securities. The Adviser or its affiliates may advise the money market funds and investment companies in which the Fund may

[5] The Trust is registered as an open-end investment company under the Investment Company Act of 1940 (''1940 Act''). On September 4, 2012, the Trust filed with the Commission Amendment No. 1 to Registration Statement on Form N–1A under the Securities Act of 1933 and under the 1940 Act relating to the Fund (File Nos. 333–179904 and 811–22649) (''Registration Statement''). In addition, the Exchange notes that the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601) (''Exemptive Order'').

[6] BlackRock Fund Advisors is an indirect wholly owned subsidiary of BlackRock, Inc.

[7] The Adviser manages the Fund's investments and its business operations subject to the oversight of the Board of Trustees of the Trust (''Board''). While the Adviser is ultimately responsible for the management of the Fund, it is able to draw upon the trading, research, and expertise of its asset management affiliates for portfolio decisions and management with respect to portfolio securities. The Adviser also has ongoing oversight responsibility. The Sub-Adviser, subject to the supervision and oversight of the Adviser and the Board, is responsible for day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings.

[8] *See* BATS Rule 14.11(i)(7). The Exchange represents further that, in the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding such portfolio.

[9] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot, or labor disruption, or any similar intervening circumstance.

[10] While the Fund is permitted to invest without restriction in corporate bonds, the Adviser expects that, under normal market conditions, the Fund will generally seek to invest in corporate bond issuances that have at least $100 million par amount outstanding in developed countries and at least $200 million par amount outstanding in emerging market countries.

[11] While the Fund is permitted to invest without restriction in agency securities, the Adviser expects that, under normal market conditions, the Fund will generally not seek to invest more than 50% of the Fund's assets in agency securities. ''Agency securities'' for these purposes generally includes securities issued by the following entities: Government National Mortgage Association (Ginnie Mae), Federal National Mortgage Association (Fannie Mae), Federal Home Loan Banks (FHLBanks), Federal Home Loan Mortgage Corporation (Freddie Mac), Farm Credit System (FCS) Farm Credit Banks (FCBanks), Student Loan Marketing Association (Sallie Mae), Resolution Funding Corporation (REFCORP), Financing Corporation (FICO), and the Farm Credit System (FCS) Financial Assistance Corporation (FAC). Agency securities can include, but are not limited to, mortgage-backed securities.

[12] While the Fund will invest at least 80% of its net assets in a diversified portfolio of U.S. dollar-denominated investment grade Fixed Income Securities, the Adviser expects that, under normal circumstances, the Fund also intends to invest in money market securities (as described below) in a manner consistent with its investment objective in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses, and to satisfy margin requirements, to provide collateral or to otherwise back investments in derivative instruments. For these purposes, money market securities include: Short-term, high-quality obligations issued or guaranteed by the U.S. Treasury or the agencies or instrumentalities of the U.S. government; Short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies, and instrumentalities; repurchase agreements backed by U.S. government securities; money market mutual funds; commercial paper; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. All money market securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated money market securities. However, it may do so, to a limited extent, such as where a rated money market security becomes unrated, if such money market security is determined by the Adviser or the Sub-Adviser to be of comparable quality.

invest, in accordance with the 1940 Act. The Fund may invest up to 5% of its net assets in Fixed Income Securities and instruments of issuers that are domiciled in emerging market countries.

The Fund will invest in asset-backed and mortgage-backed Fixed Income Securities.[13] Asset-backed securities are fixed-income securities that are backed by a pool of assets, usually loans such as installment sale contracts or credit card receivables. Mortgage-backed securities are asset-backed securities based on a particular type of asset, a mortgage. There is a wide variety of mortgage-backed securities involving commercial or residential, fixed-rate or adjustable rate mortgages, and mortgages issued by banks or government agencies. Most transactions in fixed-rate mortgage pass-through securities occur through standardized contracts for future delivery in which the exact mortgage pools to be delivered are not specified until a few days prior to settlement, known as TBA transactions. The Fund may enter into such contracts on a regular basis. The Fund, pending settlement of such contracts, will invest the relevant assets in high-quality, liquid short-term instruments, including shares of money market funds affiliated with the Adviser. Collateralized mortgage obligations (''CMOs'') are Fixed Income Securities that are backed by cash flows from pools of mortgages. CMOs may have multiple classes with different payment rights and protections.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. Under normal circumstances, the effective duration of the Fund's portfolio is expected to be one year or less, as calculated by the Adviser.[14]

Other Portfolio Holdings

In addition to money market securities in which the Fund invests as part of its principal investment strategies, as described above, the Fund may invest in money market securities in a manner consistent with its investment objective in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses, and to satisfy margin requirements, to provide collateral or to otherwise back investments in derivative instruments.

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 Rule 144A securities. 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.

Pursuant to the Exemptive Order, the Fund will not invest in swap agreements, futures contracts, or option contracts. The Fund will also not invest in convertible securities or preferred stock, but may invest in currency forwards for hedging against foreign currency exchange rate risk and/or trade settlement purposes.

Additional information regarding the Trust, Shares, and the Fund, including investment strategies, risks, creation and redemption procedures, fees and expenses, portfolio holdings and disclosure policies, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Notice and the Registration Statement, as applicable.[15] Information can also be found on the Web site for the Fund (*www.iShares.com*).

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act[16] and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of BATS Rule 14.11(i) to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[19] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available on the facilities of the Consolidated Tape Association (''CTA''). The Intraday Indicative Value (''IIV''), which will be based upon the current value for the components of the Disclosed Portfolio, will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[20] On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of Net Asset Value (''NAV'') at the end of the business day.[21] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m. Eastern Time. Additionally, information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's

[13] Although the Fund has not established a fixed limit to the amount of asset-backed and/or mortgage-backed debt securities in which it will invest, as noted above, at least 80% of the Fund's net assets will be, under normal circumstances, invested in U.S. dollar-denominated investment grade Fixed Income Securities, including asset-backed and/or mortgage-backed debt securities. Neither high-yield asset-backed securities nor high-yield mortgage-backed securities are included in the Fund's principal investment strategies. The liquidity of a security, especially in the case of asset-backed and mortgage-backed debt securities, is a substantial factor in the Fund's security selection process.

[14] Effective duration is a measure of the potential responsiveness of a bond or portfolio price to small parallel shifts in interest rates. When measured across a portfolio, the effective duration of a portfolio is equivalent to the average portfolio duration.

[15] *See supra* notes 3 and 5, respectively.

[16] 15 U.S.C. 78f.

[17] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[20] According to the Exchange, several major market data vendors display and/or make widely available IIVs published via the CTA or other data feeds. In addition, the quotations of certain of the Fund's holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States or if updated prices cannot be ascertained.

[21] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting, and market value of Fixed Income Securities and other assets held by the Fund, and the characteristics of such assets. The Web site information will be publicly available at no charge.

closing price and trading volume information for the Shares will also be published daily in the financial section of newspapers. Intraday, executable price quotations on Fixed Income Securities and other assets are available from major broker-dealer firms. Such intraday price information is also available through subscription services, such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors. The Web site for the Fund will include a form of the prospectus for the Fund, additional data relating to NAV, and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[22] Trading in the Shares also will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.[23] The Exchange may halt trading in the Shares if trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[24] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[25] The Exchange states that it prohibits the distribution of material, non-public information by its employees. The Exchange also states that the Adviser and Sub-Adviser are both affiliated with multiple broker-dealers, and both the Adviser and Sub-Adviser have implemented fire walls with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio.[26] Moreover, the Exchange represents that it is able to 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.

The Exchange further represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures applicable to derivative products, which include Managed Fund Shares, are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular (''Circular'') of the special characteristics and risks associated with trading the Shares. Specifically, the Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (c) how information regarding the IIV is disseminated; (d) the risks involved in trading the Shares during the Pre-Opening[27] and After Hours Trading Sessions[28] when an updated IIV will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[29]

(6) 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 Rule 144A securities. 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.

(7) Pursuant to the Exemptive Order, the Fund will not invest in swap agreements, futures contracts, or option contracts.

(8) The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

(9) The Fund will not invest in non-U.S. equity securities.

(10) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in the Notice.

For the foregoing reasons, the Commission finds that the proposed

[22] *See* BATS Rule 14.11(i)(4)(A)(ii).

[23] *See* BATS Rule 14.11(i)(4)(B)(iv).

[24] *See* BATS Rule 14.11(i)(4)(B)(iii) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. 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.

[25] *See* BATS Rule 14.11(i)(4)(B)(ii)(B).

[26] *See supra* note 8 and accompanying text. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser, Sub-Adviser, and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[27] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[28] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[29] *See* 17 CFR 240.10A–3.

rule change is consistent with Section 6(b)(5) of the Act [30] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–BATS–2012–033), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23633 Filed 9–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67896; File No. SR–OCC–2012–17]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Margining of Segregated Futures Customer Accounts on a Gross Basis

September 20, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] notice is hereby given that on September 14, 2012, The Options Clearing Corporation (''OCC'') 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 OCC. 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 proposed rule change would allow OCC to become compliant with Commodity Futures Trading Commission (''CFTC'') Rule 39.13(g)(8)(i) which requires the margining of segregated futures customer accounts on a gross basis.

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

[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, OCC 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. OCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to provide for the margining of OCC segregated futures customer accounts on a gross basis, as required by CFTC Rule 39.13(g)(8)(i).[4]

The CFTC's Customer Gross Margin Rule

On October 18, 2011, the CFTC issued final regulations implementing many of the new statutory core principles for CFTC-registered derivatives clearing organizations (''DCOs'') enacted under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''). As a registered DCO (as well as a registered securities clearing agency), OCC has previously implemented rule changes designed to bring OCC into compliance with CFTC rules applicable to DCOs that went into effect on January 9, 2012 [5] and May 7, 2012.[6] OCC believes it is necessary to amend its Rules in order to ensure compliance with the gross margin rule, which requires a DCO to ''collect initial margin on a gross basis for each clearing member's customer account(s) equal to the sum of the initial margin amounts that would be required by the derivatives clearing organization for each individual customer within that account if each individual customer were a clearing member.'' [7] The gross margin rule goes into effect on November 8, 2012, however, OCC intends to begin complying with the gross margin rule on November 5, 2012 as described herein.

[3] The Commission has modified the text of the summaries prepared by OCC.

[4] 17 CFR 39.13(g)(8)(i).

[5] *See* SR–OCC–2011–18.

[6] *See* SR–OCC–2012–06.

[7] Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334, 69439 (November 8, 2011).

OCC's System for Calculating Margin

OCC currently calculates margin requirements for each clearing member's segregated futures customer account held at OCC on a net basis by applying OCC's System for Theoretical Analysis and Numerical Simulations (''STANS''). STANS calculates margin with respect to each account of a clearing member, including each clearing member's futures customer account(s), on a net basis. STANS includes both a net asset value (''NAV'') component and a risk component. The NAV component marks all positions to market and nets long and short positions to determine the NAV of each clearing member's portfolio of customer positions. The NAV component represents the cost to liquidate the portfolio at current prices by selling the net long positions and buying in the net short positions. The risk component is estimated by means of an expected shortfall risk measure obtained from ''Monte Carlo'' simulations designed to measure the additional asset value required in any portfolio to eliminate an unacceptable level of risk that the portfolio would liquidate to a deficit.

OCC presently lacks sufficient information about individual customer positions to calculate margin at the level of each individual customer. However, OCC has been coordinating with other DCOs to establish an industry-wide mechanism for complying with the customer gross margin rule. Pursuant to this new system, each DCO's clearing members will submit data files to the DCO identifying positions by numerical customer identifiers.[8] OCC will use this information to calculate margins, using STANS, for each customer identifier of a clearing member and to aggregate those margin calculations to determine the total futures customer margin requirement for the clearing member's segregated futures customer account(s) held at OCC.[9] OCC will then compare

[8] The position data provided to OCC by clearing members will not include (a) information with respect to the allocation of margin assets to particular customers, nor (b) information with respect to settlement obligations arising from the exercise, assignment or maturity of cleared contracts. For this reason, OCC will treat all margin assets and settlement obligations for each account to which the gross margin rule applies as being in sub-accounts of the Clearing Member. OCC will calculate margin, using STANS, separately for each sub-account and will aggregate the calculated margin requirements at the level of the clearing member's segregated futures customer account to which the sub-accounts relate.

[9] OCC currently carries the following account types that are segregated pursuant to Section 4d of the Commodity Exchange Act: Segregated Futures Accounts, Segregated Futures Professional Accounts, non-Proprietary X–M accounts, and

Continued

the aggregate positions reported by each clearing member with its own records and make any needed adjustments to the margin calculation to ensure all positions on OCC's books are properly margined.

Proposed By-Law and Rule Changes

The proposed changes to OCC's Rules provide for the calculation of margin for segregated futures customer accounts on a gross basis and mandate submission of the clearing member data files necessary to allow OCC to calculate margin at the level of each futures customer. In the event that the data included in these data files is incomplete (for example, if OCC shows positions held in a clearing member's segregated futures accounts, but those positions are not reflected in the data file), OCC will create a separate sub-account to be used for margin calculation purposes only. Positions recorded on OCC's books and records, but not reflected in the data file, will be attributed to this sub-account and a margin amount will be calculated for the sub-account. This margin amount will be added to a clearing member's margin requirement. OCC has determined to adopt this conservative approach to dealing with discrepancies between its own records and clearing member data files in order to ensure that OCC does not collect an inadequate amount of margin from clearing members.

The proposed changes to OCC's By-Laws are consistent with the purposes and requirements of Section 17A of the Exchange Act because they are designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of securities investors and the public interest. The proposed rule change is not inconsistent with any rules of OCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve or disapprove the proposed rule change or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

OCC has also filed the proposed rule change as an advance notice under Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'').[10] The proposed changes contained in the advance notice may be implemented pursuant to Section 806(e)(1)(G) of Clearing Supervision Act [11] if the Commission does not object to the proposed changes within 60 days of the later of (i) the date that the advance notice was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed changes contained in the advance notice if the Commission objects to the proposed changes.

The Commission may extend the period for review by an additional 60 days if the proposed changes raise novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. Proposed changes may be implemented in fewer than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed changes and authorizes the clearing agency to implement the proposed changes on an earlier date, subject to any conditions imposed by the Commission.

The proposals contained in the proposed rule change and advance notice shall not take effect until all regulatory actions required with respect to the proposals are completed. The clearing agency shall post notice on its web site of proposed changes that are implemented.

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–OCC–2012–17 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–OCC–2012–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of OCC and on OCC's Web site (*http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_12_17.pdf*).

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2012–17 and should be submitted on or before October 17, 2012.

internal non-proprietary cross-margining accounts. All such accounts would be margined on a gross basis under the proposed amendments to Rule 601.

[10] 12 U.S.C. 5465(e)(1).

[11] 12 U.S.C 5465(e)(1)(G).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23635 Filed 9–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67898; File No. SR–NYSEARCA–2012–95]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Amending Commentary .07 to NYSE Arca Options Rule 6.4 To Expand the Number of Expirations Available Under the Short Term Option Series Program (''STOS Program''), To Allow for the Exchange To Delist any Series in the STOS That Do Not Have Open Interest and To Expand the Number of Series in STOS Under Limited Circumstances

September 20, 2012.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 6, 2012, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') 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 self-regulatory organization. On September 18, 2012, the Exchange filed Amendment No. 1. 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 Commentary .07 to NYSE Arca Options Rule 6.4 to expand the number of expirations available under the Short Term Option Series Program (''STOS Program''), to allow for the Exchange to delist any series in the STOS that do not have open interest and to expand the number of series in STOS under limited circumstances. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to amend Commentary .07 to NYSE Arca Options Rule 6.4 to provide for the ability to open up to five consecutive expirations under the Short Term Option Series Program (''STOS Program'') for trading on the Exchange, to allow for the Exchange to delist any series in the STOS that do not have open interest and to expand the number of series in STOS under limited circumstances when there are no series at least 10% but not more than 30% away from the current price of the underlying security.[4]

Currently, the Exchange may select up to 5 currently listed option classes on which STOS options may be opened in the STOS Program and the Exchange may also match any option classes that are selected by other securities exchanges that employ a similar program under their respective rules.[5] For each option class eligible for participation in the STOS Program, the Exchange may open up to 30 Short Term Option Series for each expiration date in that class.

This proposal seeks to allow the Exchange to open STOS option series for up to five consecutive week expirations. The Exchange intends to add a maximum of five consecutive week expirations under the STOS Program, however it will not add a STOS expiration in the same week that a monthly options series expires or, in the case of Quarterly Option Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class. In other words, the total number of consecutive expirations will be five, including any existing monthly or quarterly expirations.[6] This change is being proposed notwithstanding the current cap of 30 series per class under the STOS Program. The Exchange notes that the STOS Program has been well-received by market participants, in particular by retail investors.[7] The Exchange believes that the current proposed revision to the STOS Program will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes and series.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of expirations that participate in the STOS Program.

In addition, to provide for circumstances where the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, the Exchange is proposing to add new language to Commentary .07 to provide that the Exchange would delist series with no open interest in both the call and the put series having a: (i) Strike higher than the highest price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration month, so as to

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] On July 12, 2005, the Commission approved the Weeklies Program on a pilot basis. *See* Securities Exchange Act Release No. 52013 (July 12, 2005), 70 FR 41471 (July 19, 2005) (SR–PCX–2005–32). The Weeklies Program was made permanent on June 23, 2010. *See* Securities Exchange Act Release No.62369 (June 23, 2010), 75 FR 37868 (June 30, 2010) (SR–NYSEArca–2010–59).

[5] *See* Securities Exchange Act Release Nos. 65806 (November 22, 2011), 76 FR 73753 (November 29, 2011) (SR–NYSEArca–2011–88); 67178 (June 11, 2012), 77 FR 36305 (June 18, 2012) (SR–NYSEArca–2012–60).

[6] For example, if quarterly options expire week 1 and monthly options expire week 3 from now, the proposal would allow the following expirations: week 1 quarterly, week 2 STOS, week 3 monthly, week 4 STOS, and week 5 STOS. If quarterly options expire week 3 and monthly options expire week 5, the following expirations would be allowed: week 1 STOS, week 2 STOS, week 3 monthly, week 4 STOS, and week 5 quarterly.

[7] Since the STOS Program [sic] been adopted, it has seen rapid acceptance among industry participants as evidenced by the expansion of the number of classes eligible for the STOS Program by various Exchanges. *See* Securities Exchange Act Release Nos. 65775 (November 17, 2011), 76 FR 72473 (November 23, 2011) (SR–NASDAQ–2011–138); 65776 (November 17, 2011), 76 FR 72482 (November 23, 2011) (SR–PHLX–2011–131); 66563 (March 9, 2012), 77 FR 15426 (March 15, 2012); 67194 (June 13, 2012), 77 FR 36597 (June 19, 2012) (SR–NYSEMKT–2012–08); and 67178 (June 11, 2012), 77 FR 36305 (June 18, 2012) (SR–NYSEArca–2012–60).

list series that are at least 10% but not more than 30% above or below the current price of the underlying security. Further, in the event that all existing series have open interest and there are no series at least 10% above or below the current price of the underlying security, the Exchange may list additional series, in excess of the 30 allowed currently under Commentary .07, that are at least 10% and not more than 30% above or below the current price of the underlying security.

The Exchange believes that it is important to allow investors to roll existing option positions and ensuring that there are always series at least 10% but not more than 30% above or below the current price of the underlying security will allow investors the flexibility they need to roll existing positions.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, in that it is designed to promote just and equitable principles of trade,remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that expanding the STOS Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in a greater number of securities. The Exchange also believes that expanding the STOS Program will provide the investing public and other market participants with additional opportunities to hedge their investment thus allowing these investors to better manage their risk exposure. While the expansion of the STOS Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal remains limited to a fixed number of expirations.

The Exchange believes that the ability to delist series with no open interest in both the call and the put series will benefit investors by devoting the current cap in the number of series to those series that are more closely tailored to the investment decisions and hedging decisions of investors.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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 the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–NYSEARCA–2012–95 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–2012–95. 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 business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–2012–95 and should be submitted on or before October 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23637 Filed 9–25–12; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67895; File No. SR–NYSEMKT–2012–47]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change To Amend the NYSE Amex Options LLC Members Agreement To Empower the Volume Dispute Committee To Establish Principles for Determining Whether the Exchange Has Experienced a Bona Fide Systems Problem and To Adjust Certain Volume Measurements Accordingly

September 20, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 7, 2012, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options LLC Members Agreement to empower the Volume Dispute Committee to establish principles for determining whether the Exchange has experienced a bona fide systems problem and to adjust certain volume measurements accordingly. 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, on the Commission's Web site at *http://www.sec.gov*, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the NYSE Amex Options LLC Members Agreement to empower the Volume Dispute Committee to establish principles for determining whether the Exchange has experienced a bona fide systems problem and to adjust certain volume measurements accordingly.

Background

In 2011, NYSE MKT established NYSE Amex Options LLC (''Company''), a Delaware limited liability company formed by NYSE Euronext, NYSE MKT, and seven Founding Firms,[4] and jointly owned by NYSE MKT and the Founding Firms, to operate an options facility of the Exchange.[5] The governance structure of the Company is reflected in a Limited Liability Company Agreement and a Members Agreement.

Under Article II, Section 2.1 of the Members Agreement, for a certain period, each Founding Firm must satisfy certain minimum volume requirements with respect to trading on the options facility. Under the Volume-Based Equity Plan, for each measurement period, the Company issues Annual Incentive Shares. Each Founding Firm is entitled to receive, for no additional consideration, a portion of the Annual Incentive Shares such that it dilutes, maintains or increases its equity interest in the Company (relative to the other Founding Firms) based on the degree to which the Founding Firm has failed to achieve, achieved or exceeded its ''Individual Target'' during the measurement period. A Founding Firm's Individual Target is its pro rata portion of an aggregate Founding Firm target contribution to the annual volume of the options facility.

Under Article I, Section 1.1 of the Members Agreement, the Individual Target is defined as the product of (i) the Founding Firm aggregate target market share for such measurement period multiplied by (ii) such Founding Firm's Initial Class B Common Interests multiplied by (iii) the Industry Volume for such measurement period. Industry Volume is defined, with respect to any period, as the product of (x) the aggregate U.S. listed securities option exchange volume of cleared transactions in the Products (a contract that is listed for trading on the Exchange) during such period, as reported by the OCC, that are executed and cleared during such period multiplied by (y) two. However, Industry Volume excludes (i) the volume of cleared transactions in the Products during trading days on which trading on the Exchange is halted for certain periods, and (ii) Strategic Transaction Volume, which is designed to exclude certain strategy-based transactions.[6]

Article II, Section 2.4 of the Members Agreement authorizes the Company to establish a Volume Dispute Committee, which has 15 members, one chosen by each of the seven Founding Firms and the remaining eight chosen by the Exchange. Article II, Section 2.4 empowers the Volume Dispute Committee to (i) establish principles for determining the types of transactions for which the Founding Firms are not eligible to receive credit; (ii) establish principles for determining how transaction credits should be allocated among or between the Founding Firms; (iii) review and approve the Strategic Transaction Volume; and (iv) otherwise determine certain other matters with respect to volume-related disputes.

Proposed Rule Change

The Exchange believes that if it is experiencing a bona fide systems problem, then there may be situations in which such volume should not be included in calculating Individual Targets or Industry Volume. A bona fide systems problem could include, but is not limited to, an erroneous input that causes the generation of quotes that are substantially away from the quoted national best bid and offer or a problem that causes severe latencies that do not rise to the level of a trading halt but that interfere with a Founding Firm's ability to quote or route orders. Because system problems can take many forms and may not be predictable, the Exchange does not propose to attempt to define what a systems problem is for this purpose. Rather, the Exchange believes that the Volume Dispute Committee should be empowered to establish principles for determining whether a bona fide systems problem occurred on the options facility and for what time period. The Exchange believes that providing the Volume Dispute Committee with such authority will provide the necessary flexibility and structure to resolve disputes about what volume should be counted in such situations.[7]

Thus, the Exchange proposes to amend Article II, Section 2.4(a) of the Members Agreement to empower the Volume Dispute Committee to establish principles for determining whether the Exchange has experienced a bona fide systems problem, and the time period of such bona fide systems problem. In Article 1, Section 1.1 of the Members Agreement, the Exchange also proposes to amend the definition of Industry Volume to provide that the computation of volume would exclude the volume of

[4] The Founding Firms are Banc of America Strategic Investments Corporation, Barclays Electronic Commerce Holdings Inc., Citadel Securities LLC, Citigroup Financial Strategies, Inc., Goldman, Sachs & Co., Datek Online Management Corp., and UBS Americas Inc.

[5] Securities Exchange Act Release No. 64742 (June 24, 2011), 76 FR 38436 (June 30, 2011) (SR–NYSEAmex–2011–18).

[6] *See* Article II, Section 2.1(h) of the Members Agreement.

[7] The Exchange notes that while it has procedures for adjusting or busting certain trades under Rule 957NY [sic], there may be certain instances in which bona fide systems issues have occurred but where certain trades fall outside of this Rule or otherwise are permitted to stand under the Rule, it would be inequitable to include such trades in calculating Industry Volume or a Founding Firm's Individual Target.

cleared transactions in the Products during a period of time in which the Exchange experienced a bona fide systems problem. Finally, the Exchange proposes to amend Section 2.3(a), which establishes a methodology for determining whether a Founding Firm has met its Individual Target, to provide that credits would not be awarded for any transactions executed during a period of time in which the Exchange experienced a bona fide systems problem.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''),[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change would promote just and equitable principles of trade by making the calculations of Individual Target and Industry Volume fairer by authorizing the Volume Dispute Committee to establish principles for excluding transactions that occurred while bona fide systems problems were occurring. The Exchange believes that such principles will help to foster cooperation among the Founding Firms and remove impediments to a free and open market, further encouraging the Founding Firms to bring order flow to the Exchange and thus promoting liquidity for all investors.

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.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to rule-comments@sec.gov. Please include File No. SR–NYSEMKT–2012–47 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 No. SR–NYSEMKT–2012–47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 No. SR–NYSEMKT–2012–47 and should be submitted on or before October 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23634 Filed 9–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67897; File No. SR–NYSEMKT–2012–42]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1, Amending Rule 903(h) and Related Commentary .10 To Expand the Number of Expirations Available Under the Short Term Option Series Program (''STOS Program''), To Allow for the Exchange To Delist Any Series in the STOS That Do Not Have Open Interest and To Expand the Number of Series in STOS Under Limited Circumstances

September 20, 2012.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 6, 2012, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 self-regulatory organization. On September 18, 2012, the Exchange filed Amendment No. 1. The Commission is

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Rule 903(h) and related Commentary .10 to expand the number of expirations available under the Short Term Option Series Program (''STOS Program''), to allow for the Exchange to delist any series in the STOS that do not have open interest and to expand the number of series in STOS under limited circumstances. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to amend Rule 903(h) to provide for the ability to open up to five consecutive expirations under the Short Term Option Series Program (''STOS Program'') for trading on the Exchange, to allow for the Exchange to delist any series in the STOS that do not have open interest and to expand the number of series in STOS under limited circumstances when there are no series at least 10% but not more than 30% away from the current price of the underlying security.[4]

Currently, the Exchange may select up to 5 currently listed option classes on which STOS options may be opened in the STOS Program and the Exchange may also match any option classes that are selected by other securities exchanges that employ a similar program under their respective rules.[5] For each option class eligible for participation in the STOS Program, the Exchange may open up to 30 Short Term Option Series for each expiration date in that class.

This proposal seeks to allow the Exchange to open STOS option series for up to five consecutive week expirations. The Exchange intends to add a maximum of five consecutive week expirations under the STOS Program, however it will not add a STOS expiration in the same week that a monthly options series expires or, in the case of Quarterly Option Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class. In other words, the total number of consecutive expirations will be five, including any existing monthly or quarterly expirations.[6] This change is being proposed notwithstanding the current cap of 30 series per class under the STOS Program.

The Exchange notes that the STOS Program has been well-received by market participants, in particular by retail investors.[7] The Exchange believes that the current proposed revision to the STOS Program will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes and series.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of expirations that participate in the STOS Program.

In addition, to provide for circumstances where the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, the Exchange is proposing to add new language to Commentary .10 to provide that the Exchange would delist series with no open interest in both the call and the put series having a: (i) Strike higher than the highest price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration month, so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security. Further, in the event that all existing series have open interest and there are no series at least 10% above or below the current price of the underlying security, the Exchange may list additional series, in excess of the 30 allowed currently under Commentary .10, that are at least 10% and not more than 30% above or below the current price of the underlying security.

The Exchange believes that it is important to allow investors to roll existing option positions and ensuring that there are always series at least 10% but not more than 30% above or below the current price of the underlying security will allow investors the flexibility they need to roll existing positions.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5),[9] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that expanding the STOS Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in a greater number of securities.

The Exchange also believes that expanding the STOS Program will provide the investing public and other market participants with additional

[4] On July 12, 2005, the Commission approved the Weeklies Program on a pilot basis. *See* Securities Exchange Act Release No. 52014 (July 12, 2005), 70 FR 41244 (July 18, 2005) (Amex–2005–035). The Weeklies Program was made permanent on June 23, 2010. *See* Securities Exchange Act Release No. 62370 (June 23, 2010), 75 FR 37870 (June 30, 2010) (SR–NYSEAmex–2010–62).

[5] *See* Securities Exchange Act Release Nos. 65805 (November 22, 2011), 76 FR 73750 (SR–NYSEAmex–2011–89); 67194 (June 13, 2012), 77 FR 36579 (June 19, 2012) (SR–NYSEMKT–2012–08).

[6] For example, if quarterly options expire week 1 and monthly options expire week 3 from now, the proposal would allow the following expirations: week 1 quarterly, week 2 STOS, week 3 monthly, week 4 STOS, and week 5 STOS. If quarterly options expire week 3 and monthly options expire week 5, the following expirations would be allowed: week 1 STOS, week 2 STOS, week 3 monthly, week 4 STOS, and week 5 quarterly.

[7] Since the STOS Program [sic] been adopted, it has seen rapid acceptance among industry participants as evidenced by the expansion of the number of classes eligible for the STOS Program by various Exchanges. *See* Securities Exchange Act Release Nos. 65775 (November 17, 2011), 76 FR 72473 (November 23, 2011) (SR–NASDAQ–2011–138); 65776 (November 17, 2011), 76 FR 72482 (November 23, 2011) (SR–PHLX–2011–131); 66563 (March 9, 2012), 77 FR 15426 (March 15, 2012); 67194 (June 13, 2012), 77 FR 36597 (June 19, 2012) (SR–NYSEMKT–2012–08); and 67178 (June 11, 2012), 77 FR 36305 (June 18, 2012) (SR–NYSEArca–2012–60).

[8] 15 U.S.C. 78f (b).

[9] 15 U.S.C. 78f(b)(5).

opportunities to hedge their investment thus allowing these investors to better manage their risk exposure. While the expansion of the STOS Program will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal remains limited to a fixed number of expirations.

The Exchange believes that the ability to delist series with no open interest in both the call and the put series will benefit investors by devoting the current cap in the number of series to those series that are more closely tailored to the investment decisions and hedging decisions of investors.

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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2012–42 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–NYSEMKT–2012–42. 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 business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2012–42 and should be submitted on or before October 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23636 Filed 9–25–12; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8042]

Call for Expert Reviewers to the U.S. Government Review of the Working Group I Contribution to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), Climate Change 2013: The Physical Science Basis

Summary: The United States Global Change Research Program, in cooperation with the Department of State, request expert review of the Second Order Draft of the Working Group I Contribution to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) *Climate Change 2013: The Physical Science Basis.*

The United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) established the IPCC in 1988. In accordance with its mandate and as reaffirmed in various decisions by the Panel, the major activity of the IPCC is to prepare comprehensive and up-to-date assessments of policy-relevant scientific, technical, and socio-economic information for understanding the scientific basis of climate change, potential impacts, and options for mitigation and adaptation. The IPCC develops a comprehensive assessment spanning all the above topics approximately every six years. The First Assessment Report was completed in 1990, the Second Assessment Report in 1995, the Third Assessment Report in 2001, and the Fourth Assessment in 2007.

Three working group volumes and a synthesis report comprise the Fifth Assessment Report. Working Group I assesses the scientific aspects of the climate system and climate change; Working Group II assesses the vulnerability of socio-economic and natural systems to climate change, potential negative and positive consequences, and options for adapting to it; and Working Group III assesses options for limiting greenhouse gas emissions and otherwise mitigating climate change. Procedures for the IPCC and its preparation of reports can be found at the following Web sites: *http://www.ipcc.ch/organization/organization_review.shtml#.UEY0LqSe7x8 http://ipcc.ch/organization/organization_procedures.shtml.*

In October 2009, the IPCC approved the outline for the Working Group I contribution to the 5th Assessment Report (Working Group I Table of Contents: *https://www.ipcc.unibe.ch/AR5/chapteroutline.html).* Authors were

nominated in May of 2010 and selected in June of 2010. All IPCC reports go through two broad reviews: a ''first-order draft''' reviewed by experts, and a ''second-order draft'' reviewed by both experts and governments. The Second Order Draft of the Working Group I contribution to the 5th Assessment Report will be available for review beginning on 5 October 2012.

As part of the U.S. Government Review of the Second Order Draft of the Working Group I Contribution to the 5th Assessment Report, the U.S. Government is soliciting comments from experts in relevant fields of expertise (Again, the Table of Contents for the Working Group contribution can be viewed here: *https://www.ipcc.unibe.ch/AR5/chapteroutline.html)*

Beginning on 7 September, experts may register to review the draft report at: *http://ar5wgi.globalchange.gov/*. The draft report will be made available on 5 October 2012 to those who registered. To be considered for inclusion in the U.S. Government submission, comments must be received by 2 November 2012.

The United States Global Change Research Program will coordinate collection and compilation of U.S. expert comments and the review of the report by a Review Committee of Federal scientists and program managers in order to develop a consolidated U.S. Government submission, which will be provided to the IPCC by November 30, 2012. Expert comments received within the comment period will be considered for inclusion in the U.S. Government submission. Instructions for review and submission of comments are available at: *http://ar5wgi.globalchange.gov/.*

Experts may choose to provide comments directly through the IPCC's expert review process, which occurs in parallel with the U.S. government review. More information on the IPCC's comment process can be found at *http://www.ipcc.ch/activities/activities.shtml* and *http://www.ipcc.ch/pdf/ar5/review_of_wg_contributions.pdf*. To avoid duplication, comments submitted for consideration as part of the U.S. Government Review should not also be sent to the IPCC Secretariat through the Expert Review process. Comments to the U.S. government review should be submitted using the Web-based system at: *http://ar5wgi.globalchange.gov/*.

This certification will be published in the **Federal Register**.

Dated: September 20, 2012.

Trigg Talley,

Director, Office of Global Change, Department of State.

[FR Doc. 2012–23694 Filed 9–25–12; 8:45 am]

BILLING CODE 4710–09–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in ''**DATES**.''

DATES: August 1, 2012, through August 31, 2012.

ADDRESSES: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; email: *rcairo@srbc.net*. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(f):

1. Carrizo (Marcellus), LLC, Pad ID: Wetterling Well #1, ABR–201208001, Owego Town, Tioga County, NY; Consumptive Use of Up to 2.100 mgd; Approval Date: August 3, 2012.
2. Chesapeake Appalachia, LLC, Pad ID: Lorraine, ABR–201208002, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.
3. Chesapeake Appalachia, LLC, Pad ID: Nina, ABR–201208003, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.
4. Chesapeake Appalachia, LLC, Pad ID: Stethers, ABR–201208004, Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.
5. Chesapeake Appalachia, LLC, Pad ID: Harlan, ABR–201208005, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.
6. Chesapeake Appalachia, LLC, Pad ID: Whitney, ABR–201208006, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 6, 2012.
7. Anadarko E&P Company LP, Pad ID: Salt Run HC Pad A, ABR–201208007, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.
8. Anadarko E&P Company LP, Pad ID: Kenneth L Martin Pad A, ABR–201208008, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.
9. Anadarko E&P Company LP, Pad ID: Ann C Good Pad A, ABR–201208009, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.
10. Anadarko E&P Company LP, Pad ID: Red Fox H&FC Pad B, ABR–201208010, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 10, 2012.
11. Energy Corporation of America, Pad ID: COP 324 A, ABR–201208011, Girard Township, Clearfield County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: August 10, 2012.
12. Chesapeake Appalachia, LLC, Pad ID: BKT, ABR–201208012, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 10, 2012.
13. Chesapeake Appalachia, LLC, Pad ID: Ronmary, ABR–201208013, Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 10, 2012.
14. XTO Energy Incorporated, Pad ID: PA Tract K, ABR–201208014, Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.500 mgd; Approval Date: August 24, 2012.
15. Range Resources-Appalachia, LLC, Pad ID: McWilliams Unit #6H—#10H Well Pad, ABR–201208015, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: August 24, 2012.
16. WPX Energy Appalachia, LLC, Pad ID: Keenan East Well Pad, ABR–201208016, Choconut Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 28, 2012.
17. WPX Energy Appalachia, LLC, Pad ID: Malling Well Pad, ABR–201208017, Silver Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: August 28, 2012.
18. Range Resources-Appalachia, LLC, Pad ID: Null—Bobst Unit #1H, ABR–

201208018, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: August 28, 2012.

19. Carrizo (Marcellus), LLC, Pad ID: Ricci Well Pad, ABR–201208019, Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.100 mgd; Approval Date: August 28, 2012.

20. Chesapeake Appalachia, LLC, Pad ID: Tufano, ABR–201208020, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 28, 2012.

21. Chesapeake Appalachia, LLC, Pad ID: Borek, ABR–201208021, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: August 28, 2012.

22. Cabot Oil & Gas Corporation, Pad ID: SalanskyT P1, ABR–201208022, Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: August 28, 2012.

23. Talisman Energy USA Inc., Pad ID: 05 258 Kuhlman M, ABR–201208023, Windham Township, Bradford County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: August 28, 2012.

24. Chief Oil & Gas LLC, Pad ID: Tague East Drilling Pad, ABR–201208024, Lemon Township, Wyoming County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: August 31, 2012.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR parts 806, 807, and 808.

Dated: September 14, 2012.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2012–23660 Filed 9–25–12; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects rescinded by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: July 1, 2012, through August 31, 2012.

ADDRESSES: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; email: *rcairo@srbc.net*. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified above:

Approvals by Rule Rescissions Under 18 CFR 806.22(f)

1. Gastem USA, Inc., Pad ID: Sheckells 1, ABR–201007044, Cherry Valley Town, Otsego County, NY; Rescind Date: July 5, 2012.

2. Covalent Energy, Inc., Pad ID: Ross 1, ABR–20090818, Maryland Town, Otsego County, NY; Rescind Date: July 5, 2012.

3. EOG Resources, Inc., Pad ID: Beardslee 1V, ABR–201008084, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

4. EOG Resources, Inc., Pad ID: BEARDSLEE 2H Pad, ABR–201008085, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

5. EOG Resources, Inc., Pad ID: CASEMAN 1H, ABR–201008103, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

6. EOG Resources, Inc., Pad ID: CASEMAN 2H, ABR–201008104, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

7. EOG Resources, Inc., Pad ID: Chapman Pad, ABR–201008125, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

8. EOG Resources, Inc., Pad ID: COP Pad A, ABR–20100531, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

9. EOG Resources, Inc., Pad ID: COP Pad B, ABR–20100645, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

10. EOG Resources, Inc., Pad ID: COP Pad C, ABR–201008027, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

11. EOG Resources, Inc., Pad ID: COP Pad J, ABR–201009022, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

12. EOG Resources, Inc., Pad ID: COP Pad N, ABR–201103001, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

13. EOG Resources, Inc., Pad ID: COP Pad O, ABR–201103030, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.

14. EOG Resources, Inc., Pad ID: Dodge Pad, ABR–201008086, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

15. EOG Resources, Inc., Pad ID: Furman Pad, ABR–201008093, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

16. EOG Resources, Inc., Pad ID: GARVER Pad, ABR–201008053, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

17. EOG Resources, Inc., Pad ID: GEROULD Pad, ABR–201008109, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

18. EOG Resources, Inc., Pad ID: HALSTEAD Pad, ABR–201009060, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

19. EOG Resources, Inc., Pad ID: HOPPAUGH 1V, ABR–20091119, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

20. EOG Resources, Inc., Pad ID: Houseknecht 1H Pad, ABR–20090423.1, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

21. EOG Resources, Inc., Pad ID: Houseknecht 2H Pad, ABR–20090419, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

22. EOG Resources, Inc., Pad ID: Houseknecht 3H Pad, ABR–20090422, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

23. EOG Resources, Inc., Pad ID: JACKSON 1H Pad, ABR–20090053, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

24. EOG Resources, Inc., Pad ID: JBR PARTNERS 1V, ABR–20100555, Saint Marys City, Elk County, Pa.; Rescind Date: August 28, 2012.

25. EOG Resources, Inc., Pad ID: JOHNSON Pad, ABR–201008100, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

26. EOG Resources, Inc., Pad ID: JONES 1V, ABR–20091203, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

27. EOG Resources, Inc., Pad ID: KENYON 1V, ABR–20091235, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

28. EOG Resources, Inc., Pad ID: KINGSLEY 5H, ABR–201008080, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

29. EOG Resources, Inc., Pad ID: KINGSLEY 6H, ABR–201008081, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

30. EOG Resources, Inc., Pad ID: Kingsley 7V Pad, ABR–201008106, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

31. EOG Resources, Inc., Pad ID: Lee 4H, ABR–201008105, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

32. EOG Resources, Inc., Pad ID: LIDDELL 1H, ABR–20100157, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
33. EOG Resources, Inc., Pad ID: MacBride Pad, ABR–201008120, Smithfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
34. EOG Resources, Inc., Pad ID: Manzek Land Pad, ABR–201008063, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
35. EOG Resources, Inc., Pad ID: MATTOCKS 1V, ABR–20100655, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
36. EOG Resources, Inc., Pad ID: McKEE Pad, ABR–201008092, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
37. EOG Resources, Inc., Pad ID: MULLALY Pad, ABR–201009008, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
38. EOG Resources, Inc., Pad ID: Otten Pad, ABR–201008047, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
39. EOG Resources, Inc., Pad ID: PHC 10V Pad, ABR–20090719, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
40. EOG Resources, Inc., Pad ID: PHC 11V Pad, ABR–20090720, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
41. EOG Resources, Inc., Pad ID: PHC 20V Pad, ABR–20100156, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
42. EOG Resources, Inc., Pad ID: PHC 21V Pad, ABR–20100427, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
43. EOG Resources, Inc., Pad ID: PHC 23H/24H, ABR–20090917.1, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
44. EOG Resources, Inc., Pad ID: PHC 28H/29H, ABR–20090918.1, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
45. EOG Resources, Inc., Pad ID: PHC 3 Pad, ABR–20090424, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
46. EOG Resources, Inc., Pad ID: PHC 4H, ABR–20090501, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
47. EOG Resources, Inc., Pad ID: PHC 5H, ABR–20090502, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
48. EOG Resources, Inc., Pad ID: PHC 6H, ABR–20090721, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
49. EOG Resources, Inc., Pad ID: PHC 7H, ABR–20090722, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
50. EOG Resources, Inc., Pad ID: PHC 8H, ABR–20090723, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
51. EOG Resources, Inc., Pad ID: PHC 9H, ABR–20090503, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
52. EOG Resources, Inc., Pad ID: PHC Pad A, ABR–201000353, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
53. EOG Resources, Inc., Pad ID: PHC Pad AA, ABR–201110027, Goshen Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
54. EOG Resources, Inc., Pad ID: PHC Pad B, ABR–20100352, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
55. EOG Resources, Inc., Pad ID: PHC Pad Q, ABR–20100551, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
56. EOG Resources, Inc., Pad ID: PHC Pad R, ABR–20100690, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
57. EOG Resources, Inc., Pad ID: PHC Pad S, ABR–201009023, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
58. EOG Resources, Inc., Pad ID: PHC Pad T, ABR–201009039, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
59. EOG Resources, Inc., Pad ID: PHC Pad U, ABR–20100644, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
60. EOG Resources, Inc., Pad ID: PHC Pad Z, ABR–201103024, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
61. EOG Resources, Inc., Pad ID: PPHC Pad B, ABR–201103023, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
62. EOG Resources, Inc., Pad ID: ROBBINS Pad, ABR–201009005, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
63. EOG Resources, Inc., Pad ID: ROGERS 1H, ABR–20100512, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
64. EOG Resources, Inc., Pad ID: SG Pad P, ABR–201008035, Jones Township, Elk County, Pa.; Rescind Date: August 28, 2012.
65. EOG Resources, Inc., Pad ID: SGL 90A Pad, ABR–201008049, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
66. EOG Resources, Inc., Pad ID: SGL 90D Pad, ABR–201103021, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
67. EOG Resources, Inc., Pad ID: SGL 90F Pad, ABR–201011026, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
68. EOG Resources, Inc., Pad ID: SGL 94 Pad A, ABR–201009030, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
69. EOG Resources, Inc., Pad ID: SGL 94C Pad, ABR–201203008, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
70. EOG Resources, Inc., Pad ID: SGL 94D Pad, ABR–201203003, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
71. EOG Resources, Inc., Pad ID: SUTHERLAND CHEVROLET 1H, ABR–201011076, Lawrence Township, Clearfield County, Pa.; Rescind Date: August 28, 2012.
72. EOG Resources, Inc., Pad ID: W TYLER Pad, ABR–201008154, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
73. EOG Resources, Inc., Pad ID: WATSON Pad, ABR–201008154, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
74. EOG Resources, Inc., Pad ID: WOOD 1H Pad, ABR–201008046, Ridgebury Township, Bradford County, Pa.; Rescind Date: August 28, 2012.
75. EOG Resources, Inc., Pad ID: Ward M 1H, ABR–20090421.1, Springfield Township, Bradford County, Pa.; Rescind Date: August 28, 2012.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR parts 806, 807, and 808.

Dated: September 14, 2012.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2012–23659 Filed 9–25–12; 8:45 am]

BILLING CODE 7040–01–P

TRADE REPRESENTATIVE

Notice of Effective Date of Modifications to Certain Textile and Apparel Rules of Origin of the Dominican Republic-Central America-United States Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Effective Date of Modifications to Certain Textile and Apparel Rules of Origin of the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA–DR Agreement'').

SUMMARY: Public Law 112–163 modified the rules of origin for certain textile and apparel goods of Parties to the CAFTA–DR Agreement. While these modifications were incorporated into

the Harmonized Tariff Schedule of the United States (the ''HTS'') through the law, those modifications are not yet in effect. This notice announces that the United States Trade Representative (USTR) has determined that the date on which the equivalent amendments to the rules of origin to the CAFTA–DR have entered into force in all other CAFTA–DR Parties is October 13, 2012, and that the modifications to the HTS pursuant to section 2 of Public Law 112–163 enter into force on that date.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Caroyl Miller, Deputy Textile Negotiator, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, email address: *caroyl_miller@ustr.eop.gov*.

SUPPLEMENTARY INFORMATION: Public Law 109–53, the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the ''CAFTA–DR Act'') approved the CAFTA–DR Agreement. Presidential Proclamations 7987 of February 28, 2006, 7991 of March 24, 2006, 7996 of March 31, 2006, 8034 of June 30, 2006, 8111 of March 1, 2007, and 8331 of December, 23 2008, implemented the CAFTA–DR Agreement with respect to the United States and, pursuant to the CAFTA–DR Act, incorporated in the HTS the tariff modifications and rules of origin necessary or appropriate to carry out the CAFTA–DR Agreement. On February 23, 2011, the CAFTA–DR Agreement Free Trade Commission adopted a decision to modify certain rules of origin for textile and apparel products set forth in Annex 4.1 of the CAFTA–DR.

Public Law 112–163 enacted these modifications into the HTS, however, they have not entered into force. The law provides that these modifications apply to goods of a CAFTA–DR Party that are entered, or withdrawn from warehouse for consumption, on or after the date that the USTR determines is the first date on which the equivalent amendments to the rules of origin to the CAFTA–DR have entered into force in all other CAFTA–DR Parties. After making this determination, the USTR is to publish notice of such determination in the **Federal Register**. This notice announces that the USTR has determined that the date on which the equivalent amendments to the rules of origin to the CAFTA–DR have entered into force in all other CAFTA–DR Parties is October 13, 2012, and that the modifications to the HTS pursuant to section 2 of Public Law 112–163 enter into force on that date.

Ron Kirk,

Ambassador, United States Trade Representative.

[FR Doc. 2012–23612 Filed 9–25–12; 8:45 am]

BILLING CODE 3290–F2–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–2012–0031]

Extension of a Previously Approved Collection; Public Charters

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. 3501 *et. seq.),* this notice announces that the U.S. Department of Transportation (DOT) will forward the Information Collection Request (ICR), abstracted below to the Office of Management and Budget (OMB) for renewal of currently approved Public Charters, 14 CFR Part 380. Earlier, a **Federal Register** Notice with a 60-day comment period was published April 9, 2012 (77 FR 21144). The agency did not receive any comments to its previous notice.

DATES: Comments on this notice should be received by October 26, 2012: attention OMB/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Reather Flemmings, Office of the Secretary, Office of International Aviation, Department of Transportation, Special Authorities Division-X46, 202 366–1865, 1200 New Jersey Ave. SE., W–86–445, Washington, DC, 20590 and Torlanda Archer, Office of the Secretary, OIA, 202 366–1037.

Comment: Comments should be sent to OMB at the address that appears above and should identify the associated OMB Approval Number 2106–0005 and Docket No. OST–2012–0031.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2106–0005.

Title: Public Charters, 14 CFR Part 380.

Form Numbers: 4532, 4533, 4534 4535.

Type of Review: Extension of a Previously Approved Collection.

Respondents: Private Sector: Air carriers; tour operators; the general public (including groups and individuals, corporations and Universities or Colleges, etc.).

Number of Respondents: 245.

Number of Responses: 1782.

Total Annual Burden: 891.

Needs and Uses: 14 CFR part 380 establishes the regulations of the Department's terms and conditions governing Public Charter operators to conduct air transportation using direct air carriers. Public Charter operators arrange transportation for groups of people on chartered aircraft. This arrangement is less expensive for the travelers than individually buying a ticket. Part 380 exempts charter operators from certain provisions of the U.S. code in order that they may provide this service. A primary goal of Part 380 is to seek protection for the consumer. Accordingly, the rule stipulates that the charter operator must file evidence (a prospectus—consisting of OST Forms 4532, 4533, 4534 and 4535) with the Department for each charter program certifying that it has entered into a binding contract with a direct air carrier to provide air transportation and that it has also entered into agreements with Department-approved financial institutions for the protection of charter participants' funds. The prospectus must be approved by the Department prior to the operator's advertising, selling or operating the charter. If the prospectus information were not collected it would be extremely difficult to assure compliance with agency rules and to assure that public security and other consumer protection requirements were in place for the traveling public. The information collected is available for public inspection (*unless the respondent specifically requests confidential treatment*). Part 380 does not provide any assurances of confidentiality.

Issued in Washington, DC, on September 19, 2012.

Patricia Lawton,

Department of Transportation PRA Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2012–23555 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending September 1, 2012

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2012–0151.

Date Filed: August 31, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: Septebember 21, 2012.

Description: Application of Elitavia, Letalske Resitve, d.o.o. (''Elit'Avia'') requesting an exemption and a foreign air carrier permit authorizing Elit'Avia to engage in: (i) Foreign charter air transportation of persons, property, and mail from any point or points behind any Member State of the European Union, via any point or points in any EU Member State and via intermediate points, to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons, property, and mail between any point or points in the United States and any point orpoints in any member of the European Common Aviation Area; (iii) other charters pursuant to the prior approval requirements set forth in the Department's regulations governing charters; and (iv) charter transportation authorized by any additional route rights made available to European Union carriers in the future, to the extent permitted by Elit'Avia's homeland license on file with the Department.

Renee V. Wright,

Program Manager, Docket Operations,

Federal Register Liaison.

[FR Doc. 2012–23672 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending August 25, 2012

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2012–0145.

Date Filed: August 20, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 10, 2012.

Description: Application of VistaJet Limited (''Applicant'') requesting issuance of an exemption and a foreign air carrier permit authorizing the Applicant to engage in the following: (i) foreign charter air transportation of persons, property, and mail from any point or points behind any Member State of the European Union, via any point or points in any EU Member State and via intermediate points, to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons, property, and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign charter air transportation of cargo between any point or points in the United States and any other point or points; (iv) other charters pursuant to the prior approval requirements set forth in the Department's regulations governing charters; and (v) charter transportation authorized by any additional route rights made available to European Union carriers in the future, to the extent permitted by the Applicant's homeland license on file with the Department.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2012–23673 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for Wednesday, October 19, 2011, starting at 9:00 a.m. Eastern Daylight Time. Arrangements for oral presentations must be made by October 12, 2011.

ADDRESSES: The Boeing Company, 1200 Wilson Boulevard, Room 234, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Ralen Gao, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267–3168, FAX (202) 267–5075, or email at *ralen.gao@faa.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. 2), notice is given of an ARAC meeting to be held October 19, 2011.

The agenda for the meeting is as follows:

- Opening Remarks, Review Agenda and Minutes
- FAA Report
- ARAC Executive Committee Report
  - Update on Rulemaking Prioritization Working Group
- Transport Canada Report
- Materials Flammability Working Group Report
- Avionics Harmonization Working Group Report
- AA Working Group Report
- Flight Controls Working Group Report
  - Rudder Reversal Tasking
- Any Other Business
- Action Items Review

Attendance is open to the public, but will be limited to the availability of meeting room space. Please confirm your attendance with the person listed

in the **FOR FURTHER INFORMATION CONTACT** section no later than October 12, 2011. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

The FAA will arrange for teleconference service for individuals wishing to join in by teleconference if we receive notice by October 12, 2011. For persons participating by telephone, please contact Ralen Gao by email or phone for the teleconference call-in number and passcode. Anyone calling from outside the Arlington, VA, metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by October 12, 2011, to present oral statements at the meeting. Written statements may be presented to the ARAC at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by providing copies at the meeting. Copies of the documents to be presented to ARAC may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you need assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on September 20, 2011.

Julie Ann Lynch,

Acting Director, Office of Rulemaking.

[FR Doc. 2012–23709 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Riverside County, CA; Notice of Intent

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA, on behalf of the California Department of Transportation (Caltrans), is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Riverside County, California. Caltrans will be responsible for production of the EIS in accordance with assignment of National Environmental Policy Act (NEPA) responsibilities from DOT to Caltrans pursuant to Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59).

DATES: Comments regarding the proposed action should be provided to Caltrans at the address listed below by no later than October 28, 2012.

FOR FURTHER INFORMATION CONTACT: Aaron Burton, Senior Environmental Planner, Environmental Studies ''B,'' California Department of Transportation, Division of Environmental Planning, 464 West 4th Street, 6th Floor, MS 829, San Bernardino, California 92401–1400; or call (909) 383–2841.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans, as the assignee for NEPA compliance, will prepare an EIS on a proposal for a roadway widening project in Riverside County, California. The proposed project would widen Cajalco Road from two to four lanes between Harvill Avenue at the east end and Temescal Canyon Road at the west end, from four to five lanes between Temescal Wash and Temescal Canyon Road, and from four to six lanes between Interstate 215 (I–215) southbound ramps and Harvill Avenue. The purpose of the proposed project is to: (1) To improve the transportation facility to address anticipated growth and mobility needs, as identified in the County of Riverside General Plan Circulation Element Policy 1.5; (2) provide improved interregional travel by improving east-west mobility in Riverside County; and (3) to improve roadway alignment and intersection design to enhance safety along Cajalco Road. Alternatives under consideration include: (1) Widening existing Cajalco Road with minor alignment changes between I–215 and Temescal Canyon Road; (2) widening existing Cajalco Road between I–215 and Hollis Lane and between east of Eagle Canyon Road and Temescal Canyon Road, along with constructing a new segment of Cajalco Road between Hollis Lane and east of Eagle Canyon Road; and (3) taking no action. The project covers a length of approximately 16 miles. Anticipated federal approvals for the project include Air Quality Conformity, Section 7,Endangered Species Act, consultation for threatened and endangered species, and a Section 404, Clean Water Act individual permit.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, Participating Agencies, Tribal governments (as determined by the Native American Heritage Commission consultation), and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. The environmental review process is anticipated to be started in late 2012. Public scoping meetings will be held to discuss the alternatives and the potential impacts of the proposed project. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Caltrans at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 17, 2012.

Rebecca Bennett,

Director, Local Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. 2012–23679 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0048]

Agency Information Collection Activities; Extension of Currently-Approved Information Collection Request: Annual and Quarterly Report of Class I Motor Carriers of Passengers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its

review and approval. FMCSA requests approval to revise an ICR entitled, ''Annual and Quarterly Report of Class I Motor Carriers of Passengers (formerly OMB 2139–0003),'' which the Agency uses to ensure that motor carriers of passengers comply with its financial and operating statistics requirements in chapter III of title 49 CFR part 369 entitled, *''Reports of Motor Carriers.''* The Agency invites public comment on this ICR. On April 20, 2012, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR. FMCSA received one comment in response to the above notice. The comment did not address the burden or utility of the ICR.

DATES: Please send your comments by October 26, 2012. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2012–0048. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Vivian Oliver, Transportation Specialist, Office of Information Technology, Operations Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building, 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–2974; email Address: *vivian.oliver@dot.gov.* Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Title:* Annual and Quarterly Report of Class I Motor Carriers of Passengers (formerly OMB 2139–0003).

OMB Control Number: 2126–0031.

Type of Request: Extension of a currently-approved information collection.

Respondents: Class I Motor Carriers of Passengers.

Estimated Number of Respondents: 2 (per year).

Estimated Time per Response: 18 minutes per response.

Expiration Date: September 30, 2012.

Frequency of Response: Annually and Quarterly.

Estimated Total Annual Burden: 3 hours [10 responses × 18 minutes per response/60 minutes].

Background: For-hire Class I motor carriers of passengers (including interstate and intrastate) [1] must file Motor Carrier Quarterly and Annual Reports (Form MP–1) that provide financial and operating data (see 49 U.S.C. 14123 and implementing FMCSA regulations in 49 CFR part 369). The Agency uses this information to assess the health of the industry and identify industry changes that may affect national transportation policy. The info also shows company financial stability and traffic patterns. Passengers carriers required to comply with the regulations are classified on the basis of their annual gross carrier operating revenues. Under the Financial & Operating Statistics (F&OS) program, FMCSA collects balance sheet and income statement data along with information on tonnage, mileage, employees, transportation equipment, and other related data.

The Agency makes the data and information collected publicly available as prescribed in 49 CFR part 369. In the past, the former Interstate Commerce Commission (ICC) issued these regulations pursuant to the Interstate Commerce Act, 49 U.S.C. 11145, 49 U.S.C. 11343(d)(1) and the Bus Regulatory Act of 1982. Later, the authority was transferred to the U.S. Department of Transportation on January 1, 1996, by Chapter 141 of the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803, 893 (Dec. 29, 1995)), now codified at 49 U.S.C. 14123. The Secretary of Transportation (Secretary) transferred the authority to administer the F&OS program to the former Bureau of Transportation Statistics on September 30, 1998 (63 FR 52192). Pursuant to this authority, the BTS, now part of the Research and Innovative Technology Administration (RITA), became the responsible DOT modal administration for implementing the F&OS program and requirements in 49 CFR part 1420. On September 29, 2004, the Secretary transferred the responsibility for the F&OS program from BTS to FMCSA (69 FR 51009). On August 10, 2006 (71 FR 45740), the Secretary published a final rule that transferred and redesignated the motor carrier financial and statistical reporting regulations of BTS formerly located in chapter XI of title 49 CFR to FMCSA, See 49 CFR part 369.

Public Comments Invited: FMCSA requests comments on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued on: September 18, 2012.

Kelly Leone,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2012–23677 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–EX–P

[1] For purposes of the Financial & Operating Statistics (F&OS) program, passenger carriers are classified into two groups: (1) Class I carriers are those having average annual gross transportation operating revenues (including interstate and intrastate) of $5 million or more from passenger motor carrier operations after applying the revenue deflator formula in the Note of section 369.3; (2) Class II passenger carriers are those having average annual gross transportation operating revenues (including interstate and intrastate) of less than $5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in Note A of section 369.3. Only Class I carriers of passengers must file Annual and Quarterly Report Form MP–1, but Class II passenger carriers must notify the agency when there is a change in their classification or their revenues exceed the Class II limit.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0214]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 12 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective September 26, 2012. The exemptions expire on September 26, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)-366–4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at http://www.regulations.gov.

Docket: For access to the docket to read background documents or comments, go to http://www.regulations.gov at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Background

On August 6, 2012, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (77 FR 46793). That notice listed 12 applicants' case histories. The 12 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 12 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 12 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including retinal scarring, telangiectasis, enucleation, amblyopia, macular scarring, strabismus, loss of vision, and glaucoma. In most cases, their eye conditions were not recently developed. Seven of the applicants were either born with their vision impairments or have had them since childhood.

The five individuals that sustained their vision conditions as adults have had it for a period of 7 to 32 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 12 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 52 years. In the past 3 years, two of the drivers were involved in crashes, and two of the drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 6, 2012 notice (77 FR 46793).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345,

March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 12 applicants, two of the drivers were involved in crashes, and two were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 12 applicants listed in the notice of August 6, 2012 (77 FR 46793).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 12 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received two comments in this proceeding. The comments were considered and discussed below.

The first individual, Timmeeka Bridges, was in favor of granting the Federal vision exemption to all of the drivers listed in this notice because they have already demonstrated their ability to operate a CMV safely on state highways and a doctor's opinion has supported the applicants.

The second individual, Tyler Nieman, was not in support of granting the Federal vision exemption to all the drivers listed because he feels that that they cannot meet the requirements necessary to drive CMVs on interstate highways and pose a danger on the roads.

In response to the second comment, FMCSA's exemption process supports drivers with vision deficiencies who seek to operate in interstate commerce. In addition, FMSCA relies on the expert medical opinion of the optometrist or ophthalmologist, who are required to attest that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and the medical examiner, who is required to attest that the individual is otherwise physically qualified under 49 CFR 391.41. Until the Agency issues a Final Rule, however, drivers with vision deficiencies must continue to apply for exemptions from FMCSA, and request renewals of such exemptions. FMCSA will grant exemptions only to those applicants who meet the specific conditions and comply with all the requirements of the exemption.

Conclusion

Based upon its evaluation of the 12 exemption applications, FMCSA exempts Michael J. Bechta (PA), Bryan G. Brockus (ID), Larry Clay NM), Michael D. DeKorte (MI), Eric L. Gomersall (WI), Larry E. Johnsonbaugh, Jr. (PA), Albert Lewis, (AL), John B. Middleton (OH), Ronald W. Patten (ME), Kirk W. Scott (CT), Michael F. Sprouse (SC), and John G. Steedley (GA) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may

apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 19, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–23675 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0278]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 5 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before October 26, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0278 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 5 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

James R. Atherton

Mr. Atherton, age 64, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''I feel that Mr. Atherton has sufficient vision to drive a commercial vehicle as long as he follows all the recommended restrictions.'' Mr. Atherton reported that he has driven tractor-trailer combinations for 37 years, accumulating 2.7 million miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; failure to obey a traffic signal.

Jose S. Chavez

Mr. Chavez, 47, had a rupture in his left eye due to an injury sustained in 1984. The best corrected visual acuity in his right eye is 20/20, and in his left eye, hand motion vision. Following an examination in 2011, his ophthalmologist noted, ''I certify, in my medical opinion, that this patient has sufficient vision to perform the driving test required to operate a commercial vehicle and a waiver should be done, because I am aware of that normally you have to have two eyes unless you have a waiver; but he has been doing this for many years without an accident and he is a very reliable and careful driver.'' Mr. Chavez reported that he has driven tractor-trailer combinations for 22 years, accumulating 3.3 million miles. He holds a Class A Commercial Driver's License (CDL) from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Christopher K. Foot

Mr. Foot, 46, has a prosthetic right eye due to traumatic injury sustained in 1970. The best corrected visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''Based on his excellent vision in the left eye and his long history of driving commercial vehicles, it is in my medical opinion that he has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Foot reported that he has driven straight trucks for 4 years, accumulating 312,000 miles. He holds a Class B CDL from Nevada. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 10 mph.

Patrick J. McMillen

Mr. McMillen, 50, has scarring in his left eye due to histoplasmosis sustained in 1991. The best corrected visual acuity in his right eye is 20/25, and in his left eye, 20/200. Following an examination in 2012, his optometrist noted, ''It is my professional opinion that the defect in Mr. McMillen's left eye will not and has not affected his ability to operate a motor vehicle safely, whether commercial or private.'' Mr. McMillen reported that he has driven straight trucks for 12 years, accumulating 12,000 miles, and tractor-trailer combinations for 24 years, accumulating 960,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 15 mph.

Gary B. Shipler

Mr. Shipler, 66, has retinal damage in his right eye since age 13. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''In my opinion he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Shipler reported that he has driven straight trucks for 4 years, accumulating 120,000 miles. He holds an operator's license from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business October 26, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: September 19, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–23681 Filed 9–25–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0739]

Agency Information Collection (Access to Financial Records) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 26, 2012.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0739'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7479, Fax (202) 632–7583 or email *denise.mclamb@va.gov*. Please refer to ''OMB Control No. 2900–0739.''

SUPPLEMENTARY INFORMATION:

Title: Access to Financial Records, 38 CFR 3.115.

OMB Control Number: 2900–0739.

Type of Review: Extension of a currently approved collection.

Abstract: Under 38 CFR 3.115, VA is authorized to request access to financial records to obtain the current address of beneficiaries from financial institutions in receipt of a VA direct deposit payment. VA will only request the current address for beneficiaries whose mail was returned to the VA.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 19, 2012, at pages 42556–42557.

Affected Public: Business or Other for Profit.

Estimated Annual Burden: 4,167 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50,000.

Dated: September 21, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2012–23650 Filed 9–25–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0740]

Agency Information Collection (Authorization To Substitute a Claim of a Deceased Claimant); Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 26, 2012.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0740'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7479, FAX (202) 632–7583 or email *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0740.''

SUPPLEMENTARY INFORMATION:

Title: Authorization to Substitute a Claim of a Deceased Claimant, VA Form 21–0847.

OMB Control Number: 2900–0740.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–0847 is used to allow claimants to request substitutions for a claimant, who passed away, prior to VA processing a claim to completion. This is only allowed when a claimant dies while a claim or appeal for any benefit under a law administered by the VA is pending. The substitute claimant would be eligible to receive accrued benefits due to a deceased claimant. The substitute claim must be filed no later than one year after the date of the death of the claimant. By law, VA must have a claimant's or beneficiary's written permission (an ''authorization'') to be a substitute claimant. The claimant or beneficiary may revoke the authorization at any time, except if VA has already acted based on the permission.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 19, 2012, at page 42554.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,667.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On time.

Estimated Number of Respondents: 20,000.

Dated: September 21, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2012–23651 Filed 9–25–12; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 77 Wednesday,

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Part II

Pension Benefit Guaranty Corporation

Privacy Act of 1974; Systems of Records; Notice

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; Systems of Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of changes to systems of records and addition of routine uses.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing four new routine uses applicable to all of its existing systems of records maintained pursuant to the Privacy Act of 1974, *as amended* (5 U.S.C. 552a), three new systems of records, adding new routine uses to existing systems of record, and is amending eight systems of records to make technical and clarifying changes.

DATES: Comments on the new system of records, proposed routine uses, and technical and clarifying changes must be received on or before October 26, 2012. The new systems of records, routine uses, and technical and clarifying changes will become effective on November 13, 2012 without further notice, unless comments result in a contrary determination and a notice is published to that effect.

ADDRESSES: You may submit written comments to PBGC by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

Comments received, including personal information provided, will be posted to *http://www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Margaret E. Drake, Special Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4400 or 1–800–400–7242, extension 3228 (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400). For access to any of the PBGC's systems of records, contact PBGC's Disclosure Officer, Office of the General Counsel, Disclosure Division, at the above address, 202–326–4040 or 1–800–400–7242.

SUPPLEMENTARY INFORMATION: The PBGC is proposing to add three new systems of records, PBGC–18, Office of Negotiations and Restructuring Risk Management Early Warning (RMEW) System; PBGC–19, Office of General Counsel Legal Management System; and, PBGC–20, Identity Management System. In addition, PBGC is proposing to alter each of its system of records maintained pursuant to the Privacy Act of 1974, *as amended,* by establishing four new general routine uses, and by adding new routine uses to the following existing systems of records: PBGC–3, Employee Payroll, Leave, and Attendance Records (last updated at 75 FR 37842 (June 30, 2010)), PBGC–6, Plan Participant and Beneficiary Data—PBGC (last updated at 75 FR 37842 (June 30, 2010)), PBGC–9, Plan Participant and Beneficiary Address Identification File (last updated at 75 FR 37842 (June 30, 2010)), PBGC–11, Call Detail Records (last updated at 75 FR 37842 (June 30, 2010)), PBGC–13, Debt Collection (last updated at 75 FR 37842 (June 30, 2010)), and PBGC–15, Emergency Notification Records (last updated at 75 FR 37842 (June 30, 2010)). PBGC is also amending eight systems of records to make technical and clarifying changes after undertaking a periodic review of those systems as required under Appendix 1 to the Office of Management and Budget (''OMB'') Circular A–130, *Management of Federal Information Resources* (Nov. 28, 2000). The eight systems of records being amended are: PBGC–1, Correspondence Between the PBGC and Persons Outside of the PBGC–PBGC (last published at 75 FR 37842 (June 30, 2010)), PBGC–2, Disbursements—PBGC (last published at 75 FR 37842 (June 30, 2010)), PBGC–4, Employee Travel Records—PBGC (last published at 75 FR 37842 (June 30, 2010)), PBGC–5, Personnel Files—PBGC, (last published at 75 FR 37842 (June 30, 2010)), PBGC–8, Employee Relations Files—PBGC (last published at 75 FR 37842 (June 30, 2010)), PBGC–10, Administrative Appeals File—PBGC (last published at 75 FR 37842 (June 30, 2010)), PBGC–12, Security Investigation Records—PBGC (last updated at 75 FR 37842 (June 30, 2010)), PBGC–14, My Plan Administration Account Authentication Records—PBGC (last published at 75 FR 37842 (June 30, 2010)), PBGC–16, Employee Online Directory—PBGC (last published at 75 FR 37842 (June 30, 2010)), and PBGC–17, Inspector General Investigative File System.

General Routine Uses

PBGC is proposing to amend its Prefatory Statement of General Routine Uses by establishing four new general routine uses that will apply to all its systems of records. PBGC's Prefatory Statement of General Routine Uses was last published at 75 FR 37842 (June 30, 2010). Proposed routine use G10 will permit PBGC to disclose information to PBGC contractors, consultants, and experts when it is necessary to accomplish an agency function. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to PBGC employees.

Proposed routine use G11 will permit PBGC to disclose information to the National Archives and Records Administration and General Services Administration for records management inspections. PBGC is proposing this routine use to allow PBGC to comply with the mandate that PBGC cooperate with records management inspections under 44 U.S.C. 2904 and 2906.

Proposed routine use G12 will permit PBGC to disclose information to any potential or actual source from which information is requested to the extent necessary to identify the individual, inform the potential or actual source of the purpose(s) of the request, and identify the type of information requested.

Proposed routine use G13 will permit PBGC to disclose information to a Federal agency, in response to a request, when it is needed in connection with a decision regarding hiring, retention, the issuance of a security clearance, conducting a security or suitability investigation, or classifying jobs.

The Privacy Act authorizes the PBGC to adopt routine uses that are consistent with the purpose for which information is collected. 5 U.S.C. 552a(a)(7) and (b)(3). OMB, in its initial Privacy Act guidance, also recognized routine uses that are necessary and proper for the efficient conduct of the government and in the best interest of both the individual and the public. 40 FR 28948, 28953 (July 9, 1975). Routine uses to provide for disclosure in connection with performing the agency's mission, allowing the government's Archivist to audit PBGC's records management, gathering information from a source, and providing information to another Federal agency in connection with a personnel or security decision qualify as

a necessary and proper use of information.

In addition to PBGC–1, PBGC–2, PBGC–3, PBGC–4, PBGC–5, PBGC–6, PBGC–8, PBGC–9, PBGC–10, PBGC–11, PBGC–12, PBGC–13, PBGC–14, PBGC–15, PBGC–16, and PBGC–17 discussed below, proposed routine uses G10, G11, G12, and G13 will apply to PBGC–18, Office of Negotiations and Restructuring Risk Management Early Warning (RMEW) System; PBGC–19, Office of General Counsel Legal Management System; and, PBGC–20, Identification Management System.

Revising Routine Uses in PBGC System of Records PBGC–3, PBGC–6, PBGC–9, PBGC–11, PBGC–13, and PBGC–15

PBGC–3

For PBGC–3, Employee Payroll, Leave, and Attendance Records, PBGC is adding the following routine uses: (1) Allowing disclosure to the Department of Labor (this routine use was deleted in the June 30, 2010 publication, but PBGC has since determined that it is still necessary); (2) allowing disclosure to the Treasury Department, the Department of Justice, and collection agencies in connection with debt collection from current and former PBGC employees who owe PBGC money. While PBGC is authorized to disclose this information under its system of records entitled, PBGC–13, Debt Collection, PBGC feels that it is prudent to also place current and former employees on notice in this system of records.

PBGC–4

PBGC is proposing three new routine uses under its system of records entitled PBGC–4, Employee Travel Records. The first proposed routine use will permit PBGC to disclose information to the Washington Metropolitan Area Transit Authority (WMATA) in connection with employee transit benefits. The second proposed routine use will permit PBGC to disclose information to the Treasury Department, the Department of Justice, and collection agencies in connection with debt collection from current and former PBGC employees who owe PBGC money. While PBGC is authorized to disclose this information under its system of records entitled, PBGC–13, Debt Collection, PBGC feels that it is prudent to also place current and former employees on notice in this system of records. The third proposed routine use will permit PBGC to disclose personal credit card information to various parties in connection with making travel arrangements related to an employee's official duties.

PBGC–6

PBGC is proposing to move six routine uses from its system of records entitled PBGC–6, Plan Participant and Beneficiary Data—PBGC to its system if records entitled, PBGC–9, Plan Participant and Beneficiary Address Identification File. These six routine uses address the disclosure of information to locate plan participants and beneficiaries in pension plans trusteed by PBGC.

In addition, PBGC is proposing two new routine uses permitting PBGC to periodically disclose the names, Social Security Numbers, and date of birth to the Social Security Administration and the Department Treasury's Bureau of Public Debt when there is a question about whether a participant or beneficiary is eligible for a benefit paid by PBGC.

To protect the privacy of individuals, disclosure of PBGC records under the routine use will be made under an Interagency Agreement subjecting the Social Security Administration and Bureau of Public Debt and their employees and contractors to criminal penalties under the Privacy Act. The Interagency Agreement will provide that the records disclosed by PBGC will be used exclusively for retrieving the data specified by PBGC and that either records will not be retained by the agency or it must be returned to PBGC or destroyed when the process is completed.

PBGC–9

PBGC is proposing to move six routine uses from its system of records entitled, PBGC–6, Plan Participant and Beneficiary Data, to its system of records entitled, PBGC–9, Plan Participant and Beneficiary Address Identification File. PBGC has a statutory obligation to pay pension benefits for plans it trustees and, at times, needs assistance to locate participants and beneficiaries when PBGC does not have a current address. These six routine uses permit PBGC to disclose certain information to various parties, including the public, for assistance in locating ''missing'' participants and beneficiaries. These routine uses have been included under PBGC's system of records entitled PBGC–6, Plan Participant and Beneficiary Data, which contains current information participants and beneficiaries; however, they are better located under PBGC–9, which was established locate updated contact information for ''missing'' participants and beneficiaries.

PBGC–11

PBGC is proposing to add a routine use under its system of records entitled PBGC–11, Call Detail Records. The new routine use will permit PBGC to disclose information from this system to the Department of Treasury, the Department of Justice, a credit agency, and a debt collection firm in connection with debts owed as a result of unauthorized long-distance calls made on PBGC equipment. While PBGC is authorized to disclose this information under its system of records entitled, PBGC–13, Debt Collection, PBGC feels that it is prudent to also place current and former employees and contractors on notice in this system of records.

PBGC–13

PBGC is proposing to add two routine uses under its system of records entitled, PBGC–13, Debt Collection. The first proposed routine use will permit PBGC to disclose the nature of the debt, the name, address, and phone numbers of individuals and companies owing a debt to the PBGC to a debt collection firm. To protect the privacy of individuals, disclosure of PBGC records under this routine use will be made under a contract subjecting the firm and its employees to the criminal penalties of the Privacy Act. The contract will provide that the PBGC records will be used exclusively to collect the debts indicated by PBGC and must be returned to PBGC at the conclusion of the debt collection effort.

The second proposed routine use will permit PBGC to disclose information to any Federal, state, or local agency, U.S. territory or commonwealth, or the District of Columbia to collect debts owed to PBGC. This routine use is being proposed following PBGC's update to its debt collection regulations.

PBGC–15

PBGC is proposing to add a new routine use under its system of records entitle PBGC–15, Emergency Notification Records. This proposed routine use will permit PBGC to disclose records maintained in the system to family members, emergency medical personnel, or to law enforcement in the case of a medical or other emergency.

Addition of System of Records

PBGC–18, Office Negotiations and Restructuring Risk Management Early Warning (RMEW) System

PBGC is proposing to establish a new system of records entitled ''PBGC–18, Office of Negotiations and Restructuring Risk Management Early Warning

(RMEW) System.'' The proposed system of records is necessary to the functions performed by the Office of Chief Counsel (OCC) and Corporate Finance and Recovery Department (CFRD), and will cover only those files that identify by name, or other personal identifier, individuals who are sources of information for or subjects of PBGC investigations and litigation carried out under applicable statutes, regulations, policies, and procedures concerning the potential termination and trusteeship of ERISA Title IV pension plans, as well as civil or administrative matters concerning companies or individuals associated with ERISA Title IV pension plans. These files may include reports; copies of financial and contractual records; background data including witness statements, summonses and subpoenas; and other information related to investigations and litigation.

OCC and CFRD, as they have always done, will continue to respect the privacy of individuals named in these files and will disclose, within the boundaries of the law, the least amount of information necessary to perform its responsibilities.

The collection and maintenance of records subject to this system are not new because records of the same type have been collected and maintained in the OCC and CFRD since the agency's establishment. Those records, however, were not maintained or retrieved by a name or other personal identifier. With the implementation of a new electronic records management system, these records will now be in a system of records, as defined in *The Privacy Act Implementation: Guidelines and Responsibilities,* 40 FR 28,498 (July 9, 1975). Electronic information will be kept in an environment with physical and logical security. Computers and hard copy records are maintained in a secured environment.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written comments on this proposal. A report on the proposed system has been sent to Congress and the Office of Management and Budget for their evaluation.

PBGC–19, Office of General Counsel Legal Management System

PBGC is proposing to establish a new system of records entitled ''PBGC–19, Office of General Counsel Legal Management System.'' The proposed system of records is necessary to the functions performed by the Office of the General Counsel (OGC) and will cover only those files that identify by name, or other personal identifier, individuals who are sources of information for or subjects of litigation relating to ERISA Title IV, labor and employment, and procurement matters. These files may include reports; copies of financial and contractual records; background data including personnel records, witness statements, summonses and subpoenas, discovery requests and responses, and resumes; ethics advice; and breach reports and supporting documentation. OGC, as it has always done, will continue to respect the privacy of individuals named in these files and will disclose, within the boundaries of the law, the least amount of information necessary to perform its responsibilities.

The collection and maintenance of records subject to this system are not new because records of the same type have been collected and maintained in the OGC since the agency's establishment. Those records, however, were not maintained or retrieved by a name or other personal identifier. With the implementation of a new electronic records management system, these records will now be in a system of records, as defined in *The Privacy Act Implementation: Guidelines and Responsibilities,* 40 FR 28,498 (July 9, 1975). Electronic information will be kept in an environment with physical and logical security. Computers and hard copy records are maintained in a secured environment.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written comments on this proposal. A report on the proposed system has been sent to Congress and the Office of Management and Budget for their evaluation.

PBGC–20, Identification Management System

PBGC is proposing to establish a new system of records entitled ''PBGC–20, Identification Management System.'' The proposed system of records is necessary to the functions performed by the Facilities and Services Department (FASD), and will cover only those files that identify by name, or other personal identifier, individuals who require regular, ongoing access to agency facilities, information technology systems, or information classified in the interest of national security, including applicants for employment or contracts, federal employees, contractors, students, interns, and volunteers, and individuals formerly in any of these positions. The system also includes individuals authorized to perform or use services provided in agency facilities (e.g., Fitness Center). The files may contain information about background investigations, biometric data, Personal Identity Verification (PIV) card issuance, and PIV card use, including entrance and exit from PBGC facilities. This information may be used to: (a) Ensure the safety and security of PBGC facilities, systems, or information, and our occupants and users; (b) verify that all persons entering federal facilities, using federal information resources, or accessing classified information are authorized to do so; and, (c) track and control PIV cards issued to persons entering and exiting the facilities, using systems, or accessing classified information.

FASD, as it has always done, will continue to respect the privacy of individuals named in these files and will disclose, within the boundaries of the law, the least amount of information necessary to perform its responsibilities.

The collection and maintenance of records subject to this system are not new because records of the same type have been collected and maintained in FASD since its establishment. Those records, however, were not maintained or retrieved by a name or other personal identifier. With the implementation of an electronic records management system, these records will now be in a system of records, as defined in *The Privacy Act Implementation: Guidelines and Responsibilities,* 40 FR 28,498 (July 9, 1975). Electronic information will be kept in an environment with physical and logical security, including encryption of information on external computer media. Computers and hard copy records are maintained in a secured environment.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written comments on this proposal. A report on the proposed system has been sent to Congress and the Office of Management and Budget for their evaluation.

Technical and Clarifying Amendments

In addition to establishing new general routine uses G10, G11, G12, and G13, PBGC is amending PBGC–1, Correspondence Between the PBGC and Persons Outside of the PBGC—PBGC, PBGC–2, Disbursements—PBGC, PBGC–3, Employee Payroll, Leave and Attendance Records–PBGC, PBGC–4, Employee Travel Records—PBGC, PBGC–5, Personnel Files—PBGC, PBGC–6, Plan Participant and Beneficiary Data—PBGC, PBGC–8, Employee Relations Files—PBGC, PBGC–9, Plan Participant and Beneficiary Address Identification File—PBGC, PBGC–10, Administrative Appeals File—PBGC, PBGC–11, Call Detail Records—PBGC, PBGC–12, Security Investigation Records—PBGC, PBGC–13, Debt Collection—PBGC,

PBGC–14, My Plan Administration Account Authentication Records—PBGC, PBGC–15, Emergency Notification Records—PBGC, PBGC–16, Employee Online Directory—PBGC, and PBGC–17, Inspector General Investigative File System to correct and update the categories of individuals covered by the system, categories of records in the system, purposes, storage, retrievability, safeguards, retention and disposal, records in the system, and record source categories. The amendments clarify the nature and purposes of the systems of records and reflect changes that have occurred since they were last published.

For the convenience of the public, PBGC's Prefatory Statement of General Routine Uses with proposed general routine uses G10, G11, G12, and G13 and the amended systems of records are published in full below with changes italicized.

Issued in Washington, DC, this 4th day of September 2012.

Joshua Gotbaum,

Director, Pension Benefit Guaranty Corporation.

Prefatory Statement of General Routine Uses

The following routine uses are incorporated by reference into various systems of records, as set forth below.

G1. Routine Use—Law Enforcement: In the event that a system of records maintained by the PBGC to carry out its functions indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be disclosed to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

G2. Routine Use—Disclosure When Requesting Information: A record from this system of records may be disclosed to a federal, state, or local agency or to another public or private source maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if and to the extent necessary to obtain information relevant to a PBGC decision concerning the hiring or retention of an employee, the retention of a security clearance, or the letting of a contract.

G3. Routine Use—Disclosure of Existence of Record Information: With the approval of the Director, Human Resources Department (or his or her designee), the fact that this system of records includes information relevant to a federal agency's decision in connection with the hiring or retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit may be disclosed to that federal agency.

G4. Routine Use—Disclosure in Litigation: A record from this system of records may be disclosed in a proceeding before a court or other adjudicative body in which the PBGC, an employee of the PBGC in his or her official capacity, or an employee of the PBGC in his or her individual capacity if the PBGC (or the Department of Justice (''DOJ'')) has agreed to represent him or her is a party, or the United States or any other federal agency is a party and the PBGC determines that it has an interest in the proceeding, if the PBGC determines that the record is relevant to the proceeding and that the use is compatible with the purpose for which the PBGC collected the information.

G5. Routine Use—Disclosure to the Department of Justice in Litigation: When the PBGC, an employee of the PBGC in his or her official capacity, or an employee of the PBGC in his or her individual capacity whom the PBGC has agreed to represent is a party to a proceeding before a court or other adjudicative body, or the United States or any other federal agency is a party and the PBGC determines that it has an interest in the proceeding, a record from this system of records may be disclosed to the DOJ if the PBGC is consulting with the DOJ regarding the proceeding or has decided that the DOJ will represent the PBGC, or its interest, in the proceeding and the PBGC determines that the record is relevant to the proceeding and that the use is compatible with the purpose for which the PBGC collected the information.

G6. Routine Use—Disclosure to OMB: A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

G7. Routine Use—Congressional Inquiries: A record from this system of records may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

G8. Routine Use—Disclosure to Labor Organizations: A record from this system of records may be disclosed to an official of a labor organization recognized under 5 U.S.C. Chapter 71 when necessary for the labor organization to perform properly its duties as the collective bargaining representative of PBGC employees in the bargaining unit.

G9. Routine Use–Disclosure in Response to a Federal Data Breach. A record from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) PBGC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) PBGC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the PBGC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with PBGC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

G10. Routine Use—Contractors, Experts, and Consultants. To contractors, experts, consultants, and the agents of thereof, and others performing or working on a contract, service, cooperative agreement, or other assignment for Pension Benefit Guaranty Corporation, (PBGC) when necessary to accomplish an agency function. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to PBGC employees.

G11. Routine Use—Records Management. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

G12. Routine Use—Gathering Information. To any source from which information is requested in the course of processing a grievance, investigation, arbitration, or other litigation, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

G13. Routine Use—Disclosure to a Federal Agency. To disclose information to a Federal agency, in response to its request, in connection with hiring or retaining an employee, issuing a

security clearance, conducting a security or suitability investigation of an individual, or classifying jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

PBGC–1

SYSTEM NAME:

Correspondence Between the PBGC and Persons Outside the PBGC—PBGC.

SYSTEM CLASSIFICATION:

Not Applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 and Iron Mountain Inc., 8001 Research Way, Springfield, VA 22153.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have corresponded with the PBGC and with components of the PBGC, and individuals who have received replies in response to their correspondence with the PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence containing the name and address of the correspondent. *While PBGC–6, Participant and Beneficiary Records, contains direct correspondence from and to participants and beneficiaries, this system may also contain participant or beneficiary information included by other correspondents, such as a Member of Congress. This includes, but is not limited to, name, address, and social security number.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, *5 U.S.C. 301 and 44 U.S.C. 3101.*

PURPOSE(S):

This system of records is maintained for programmatic and regulatory purposes (including use in adjudicatory proceedings).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses G1 through *G11* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and/or *in a variety of media, including, magnetic tapes or discs, and an automated database.*

RETRIEVABILITY:

Records are indexed by *the* name of *the* correspondent, plan name, *or other personal identifier.*

SAFEGUARDS:

Paper records are kept in file folders in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records relating to persons covered by this system are retained *for 7 years Records are also maintained on PBGC's network back-up tapes.*

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Correspondence is kept by the director of the department to which the correspondence was addressed or the director of the department who replied. These department directors are: General Counsel, Office of the General Counsel; Inspector General, Office of Inspector General; Chief Counsel, Office of Chief Counsel; Director, Policy and Research Department; Director, Communications and Public Affairs Department; Director, Legislative and Regulatory Department; Director, Financial Operations Department; Director, Budget and Organizational Performance Department; Director, Procurement Department; Director, Contract and Controls Review Department; Chief Information Officer, Office of Information Technology; *Director, Corporate Finance and Restructuring;* Director, Facilities and Services Department; Director, Human Resources Department; Director, Equal Employment Office; Director, Benefits Administration and Payment Department. *Correspondence addressed to or replied to by the Office of the Director is kept by the Deputy Director of Operations.* The PBGC's address is: 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Individuals writing to the PBGC and the PBGC's responses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–2

SYSTEM NAME:

Disbursements—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; *PBGC, 1275 K Street NW Washington, DC 20005–4026; PBGC Benefit Service, 2500 Grubb Road, Suites 140 and 221, Wilmington, DE 19810; PBGC Document Management Center, 5971 Kingstowne Village Parkway, Alexandria, Virginia 2231.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are consultants and vendors to the PBGC.

CATEGORIES OF RECORDS IN THE SYSTEMS:

Acquisition data for the procurement of goods and services. Consultant or vendor invoices. Payment vouchers, including SF 1082, *name, address, and taxpayer identification number.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; 44 U.S.C. 3101.

PURPOSE(S):

This system of records is maintained for use in determining amounts to be paid and in effecting payments by the Department of the Treasury to consultants and vendors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be transmitted to the United States Department of Treasury to effect payments to consultants and vendors.

2. General Routine Uses G1 through G7, G9 *through G12* (see Prefatory

Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f) (5 U.S.C. 552a(b)(12)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained *by PBGC* manually in file folders and/or in electronic format, including *computer databases,* magnetic tapes, or discs.

RETRIEVABILITY:

Records are indexed by name, *tax payer identification number, and contract number.*

SAFEGUARDS:

Records are kept in file cabinets in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and are protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Pursuant to PBGC's Simplified Records Schedule 1.2, PBGC retains the records for 7 years. Records may also be maintained on PBGC's network back-up tapes.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Operation Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Individuals who are consultants and vendors to the PBGC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–3

SYSTEM NAME:

Employee Payroll, Leave, and Attendance Records—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

PERSONNEL INFORMATION:

Names; addresses; social security numbers and employee numbers; and notifications of personnel actions.

PAYROLL INFORMATION:

Co-owner and/or beneficiary of bonds; marital status and number of dependents; *child support enforcement court orders; debts owed to PBGC by current and former employees; garnishments; personal bank account and direct deposit information; tax information; other deductions; salary data; pay period; and fiscal year data.* Time and attendance records, including number of regular, overtime, holiday, and compensatory hours *earned and used; compensatory travel time earned;* earnings records; leave status and data, *including leave requests, balances, and credits;* jury duty data; *and* military leave data.

The records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; 44 U.S.C. 3101; *5 U.S.C. 301.*

PURPOSE(S):

This system of records is maintained to perform functions involving employee leave, attendance, and payments, including determinations relating to the amounts to be paid to employees, the distribution of pay according to employee directions (for savings bonds and allotments, to financial institutions, and for other authorized purposes), and tax withholdings and other authorized deductions, and for statistical purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to the United States Department of the Interior, *the United States Department of Labor, and the United States Department of the Treasury* to effect payments to employees.

2. *Payments owed to PBGC through current and former employees may be shared with the Department of the Interior for the purposes of offsetting the employee's salary. Payments owed to PBGC through current and former employees who become delinquent in repaying the necessary funds may be shared with the Department of Treasury for the purposes of offsetting the employee's salary.*

3. General Routine Uses G1 through G*13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f) (5 U.S.C. 552a(b)(12)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and/or in automated form, including *computer databases,* magnetic tapes, or discs. *Records are also maintained on PBGC's network back-up tapes.*

RETRIEVABILITY:

Records are indexed by name and/or employee *number* or social security number.

SAFEGUARDS:

Manual records are kept in file cabinets in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning *both network and system-specific* user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records are maintained for *seven (7) years,* as provided in National Archives and Records Administration General Records Schedule 2. Records are also maintained on PBGC's network back-up tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual and the Office of Personnel Management.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–4

SYSTEM NAME:

Employee Travel Records—PBGC.

SYSTEM CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026. *Enterprise Services, 13600 Enterprise Services Drive, Herndon, VA 20171. Enterprise Services, 9701 S. John Young Parkway, Orlando, FL 32819.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, *and prospective* employees of the PBGC who have filed travel vouchers and related documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names; addresses; social security numbers; employee number; travel authorizations; personal credit card numbers; credit scores; government travel credit cards; SmarTrip card information; parking pass information in connection with PBGC's subsidized parking program; vouchers; *personal bank account information;* and related documents filed by *current, former, and prospective* employees of the PBGC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 6701; 29 U.S.C. 1302; 44 U.S.C. 3101; *5 U.S.C. 301.*

PURPOSE(S):

This system of records is maintained to perform functions related to travel on behalf of the PBGC, including determinations involving travel authorization and arrangements, and documentation of travel advances and reimbursements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to the United States Department of *the* Treasury to effect reimbursement of employees for travel expenses.

2. *A record from this system of records may be disclosed to the Washington Metropolitan Area Transit Authority (WMATA) and other regional transit entities to process mass transit benefits for employees.*

3. *Payments owed to PBGC through current and former employees may be shared with the Department of the Interior for the purposes of offsetting the employee's salary. Payments owed to PBGC through current and former employees who become delinquent in repaying the necessary funds may be shared with the Department of Treasury for the purposes of offsetting the employee's salary.*

4. *To disclose information to a credit card company for billing purposes; to disclose information to a Federal agency for accumulating reporting data and monitoring the system; to disclose information to the agency by the contractor in the form of itemized statements of invoices, and reports of all transactions including refunds and adjustments to enable audits of charges to the Government; to disclose credit card information, phone numbers, addresses, etc., to airlines, hotels, car rental companies and other travel affiliated companies for the purpose of serving the client; and to disclose personal credit card information to hotels and car rental companies for the purpose of guaranteeing reservations.*

5. General Routine Uses G1 through G*13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f) (5 U.S.C. 552a(b)(12)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained *by PBGC* manually in file folders and/or in electronic format, including *computer databases,* magnetic tapes and discs. *Records are also maintained on PBGC's network back-up tapes.*

RETRIEVABILITY:

Records are indexed by name*, social security number, and travel authorization number.*

SAFEGUARDS:

Records are kept in file cabinets in areas of restricted access that are locked after office hours. Electronic records are stored on computer network and protected by assigning *both network and system-specific* user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records are maintained for *seven (7) years,* as provided in National Archives and Records Administration General Records Schedule 9. Records are also maintained on PBGC's network back-up tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Current*,* former*, and prospective* PBGC employee vouchers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–5

SYSTEM NAME:

Personnel *Records*—PBGC.

SYSTEM CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees*, former employees,* and applicants for employment with the PBGC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel records that the PBGC maintains *that are not* included in the permanent Official Personnel Folder *(OPF) or Performance Management Folders (PMF). The OPF and PMF* are maintained as a system of records by the Office of Personnel Management (OPM/GOVT–1 *and OPM/GOVT–2*) and are not included in this system of records.) *Records pertaining to employee relations matters are also not included in this system of records, but are covered by PBGC–8.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; 44 U.S.C. 3101*; 5 U.S.C. 301.*

PURPOSE(S):

The purposes of the system of records *include, but are not limited to: (1)* Carrying out authorized personnel functions, including the evaluation of qualifications *for merit staffing; (2)* determinations about status, eligibility, and rights and benefits under pertinent laws and regulations governing federal employment; and computations of length of service*; (3) maintaining current and historical personnel records and preparing individual administrative transactions relating to education and training; classification; assignment; career development; evaluation; promotion, compensation, separation, and retirement; making decisions on the rights, benefits, entitlements, and the utilization of individuals; providing a data source for the production of reports, statistical surveys, rosters, documentation, and studies required for the orderly personnel administration within PBGC; and (4) maintaining employment history.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses G1 through G*13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper form in file folders and/or in electronic form, including magnetic tapes and discs. *Records are also maintained on network back-up tapes.*

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are kept in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Temporary personnel file records are destroyed when *superseded* or obsolete, or upon separation or transfer of employee from PBGC. Applications for employment are destroyed after the receipt of an OPM inspection report or 2 years after date of application, whichever is sooner. Applications for training are destroyed 5 years after completion of a specific training program.

Records are also maintained on network back-up tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individuals, present and past employers, and references given by any subject individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–6

SYSTEM NAME:

Plan Participant and Beneficiary Data—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 and/or field benefit administrator, plan administrator, and paying agent worksites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants*, alternate payees,* and beneficiaries in terminating and terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (''ERISA'').

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, telephone numbers, sex, social security numbers and other Social Security Administration information, dates of birth, dates of hire, salary, marital status, domestic relations orders, time of plan participation, eligibility status, pay status, benefit data, health-related information, insurance information where plan benefits are provided by private insurers, pension plan names and numbers, *and* initial and final PBGC determinations (29 CFR 4003.21 and 4003.59). The records listed herein are included only as pertinent or applicable to the individual plan participant*, alternate payee,* or beneficiary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1055, 1056(d)(3), 1302, 1321, 1322, 1322a, 1341, 1342 and 1350; *26 U.S.C. 6103;* 44 U.S.C. 3101.

PURPOSE(S):

This system of records is maintained for use in determining whether participants*, alternate payees,* and beneficiaries are eligible for benefits under plans covered by Title IV of ERISA, the amounts of benefits to be paid, making benefit payments, and collecting benefit overpayments. Names, addresses, and telephone numbers are used to survey customers to measure their satisfaction with the PBGC's benefit payment services and to track (for follow-up) those who do not respond to surveys.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to third parties, such as banks, insurance companies, or trustees, to *enable these third parties to* make *or determine* benefit payments to plan participants and beneficiaries, *and to report to the IRS the amounts of benefit payments and taxes withheld.*

2. A record from this system of records may be disclosed, in furtherance of proceedings under Title IV of ERISA, to a contributing sponsor (or other employer who maintained the plan), including any predecessor or successor, and any member of the same controlled group.

3. A record from this system of records may be disclosed, upon request for a purpose authorized under Title IV of ERISA, to an official of a labor organization recognized as the collective bargaining representative of the individual about whom a request is made.

4. *Payees'* names, addresses, and telephone numbers and information pertaining to debts owed by such *payees* to the PBGC may be disclosed to *the Treasury Department* or a debt collection agency or firm to collect a

claim. Disclosure *to a debt collection agency or firm* shall be made only under a contract that binds any such contractor or employee of such contractor to the criminal penalties of the Privacy Act. The information so disclosed shall be used exclusively pursuant to the terms and conditions of such contract and shall be used solely for the purposes prescribed therein. The contract shall provide that the information so disclosed shall be returned at the conclusion of the debt collection effort.

5. The name and social security number of a participant employed or formerly employed as a pilot by a commercial airline may be disclosed to the Federal Aviation Administration (''FAA'') to obtain information relevant to the participant's eligibility or continued eligibility for disability benefits.

6. The name of a participant's pension plan, the actual or estimated amount of a participant's benefit under Title IV of ERISA, the form(s) in which the benefit is payable, and whether the participant is currently receiving benefit payments under the plan or (if not) the earliest date(s) such payments could commence may be disclosed to the participant's spouse, former spouse, child, or other dependent solely to obtain a qualified domestic relations order under 29 U.S.C. 1056(d) and 26 U.S.C. 414(p). The PBGC will disclose the information only upon the receipt of a notarized, written request by a prospective alternate payee*, or their representative,* that describes the requester's relationship to the participant and states that the information will be used solely to obtain a qualified domestic relations order under state domestic relations law. The PBGC will notify the participant of any information disclosed to a prospective alternate payee *or their representative* under this routine use. Any person who knowingly and willfully requests or obtains any record concerning an individual under false pretenses is subject to a criminal penalty under 5 U.S.C. 552a(i)(3).

7. Information from a participant's initial determination under 29 CFR 4003.1(b) (excluding the participant's address, telephone number, social security number, and any sensitive medical information) may be disclosed to an alternate payee*, or their representative,* under a qualified domestic relations order issued pursuant to 29 U.S.C. 1056(d) and 26 U.S.C. 414(p) to explain how the PBGC determined the benefit due the alternate payee so that the alternate payee can pursue an administrative appeal of the benefit determination under 29 CFR 4003.51. The PBGC will notify the participant of the information disclosed to an alternate payee *or their representative* under this routine use.

8. The names, addresses, social security numbers, dates of birth*, and the pension plan name and number* of eligible PBGC pension recipients may be disclosed to the Department of Treasury and the Department of Labor to implement the income tax credit for health insurance costs under 26 U.S.C. 35 and the program for advance payment of the tax credit under 26 U.S.C. 7527.

9. The names, addresses, social security numbers, and dates of birth of eligible PBGC pension recipients residing in a particular state may be disclosed to the state's workforce agency if the agency received a National Emergency Grant from the Department of Labor under the Workforce Investment Act of 1988 to provide health insurance coverage assistance and support services for state residents under 29 U.S.C. 2918(a) and (f).

10. Payees' name, social security number, and date of birth may be provided to the Department of Treasury's Bureau of the Public Debt to verify payees' eligibility to receive payments.

11. Payees' name, social security number, and date of birth may be provided to the Social Security Administration to verify payees' eligibility to receive payments.

12. General Routine Uses G1 and G4 through G7, G9, and *G13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f) (5 U.S.C. 552a(b)(12)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper, *microfiche,* and electronic form.

RETRIEVABILITY:

Records are indexed by plan *name and number,* and participant and/or beneficiary name. Customer satisfaction survey responses are aggregated for statistical purposes after they have been received by the PBGC and are not retrievable by a participant or beneficiary's name or other assigned identifier.

SAFEGUARDS:

Paper *and microfiche* records are kept in file folders in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records for participants in a particular plan are destroyed 7 years after all payments have been made to all participants, beneficiaries, and alternate payees associated with that plan. Records existing on paper or microfiche are destroyed by shredding. Records existing on other media and computer storage media are destroyed according to the applicable PBGC Information Assurance Handbook guidance on media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Benefit Administration and Payments Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in the PBGC's regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Plan administrators, participants, *alternate payees,* and beneficiaries, the FAA, *SSA, and Treasury.*

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–8

SYSTEM NAME:

Employee Relations Files—PBGC.

SYSTEM CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former PBGC employees with respect to whom the PBGC has initiated a reduction-in-force or a disciplinary or performance-based action; and, PBGC employees who have initiated grievances under an

administrative grievance procedure or under an applicable collective bargaining agreement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notices of *furloughs,* reductions-in-force or disciplinary or performance-based actions and employees' replies to such notices; employees' notices of grievance and appeal; investigative reports; records of proceedings; appeal decisions; *last chance, last rights, and settlement agreements,* and related information. *These records may include the following personal information: name, Social Security number, date of birth, and addresses.* (*See also* a system of records *notice published* the Office of Personnel Management (''OPM'') (OPM/GOVT–3))

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; *44 U.S.C. 3101.*

PURPOSE(S):

The purpose of this system is to document all current and former PBGC personnel who have been the subject of proposed or final disciplinary or performance action, furlough, or reductions-in force, have filed a grievance or appeal, or have been suspected of misconduct.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to OPM, the Merit Systems Protection Board, the Federal Labor Relations Authority, *Office of Special Counsel,* or the Equal Employment Opportunity Commission to carry out its authorized functions (under 5 U.S.C. 1103, 1204, 7105, and 42 U.S.C. 2000e–4, in that order).

2. General Routine Uses G1 through *G13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper form in file folders and/or in electronic form, including magnetic tapes or discs.

RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are kept in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Registers and related records used to effect reduction-in-force actions are maintained *for 2 years.* Records relating to grievances raised by employees, except Equal Employment Opportunity complaints, are maintained for 7 years after the close of the matter. Records related to disciplinary or performance based actions are maintained for 7 years.

Records are also maintained on PBGC's network back-up tapes.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Records in this system of records are provided by an affected employee, the employee's supervisors, *the employee's representative,* other PBGC employees, and from investigations and interviews.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–9

SYSTEM NAME:

Plan Participant and Beneficiary Address Identification File—PBGC.

SYSTEM CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain participants, alternate payees, and beneficiaries in terminating and terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, social security numbers, addresses, *email addresses, telephone numbers,* pension plans *names, and pension plan numbers.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1055, 1056(d)(3), 1302, 1321, 1322, 1322a, 1341, 1342, and 1350; *44 U.S.C. 3101.*

PURPOSE(S):

This system of records is maintained to locate participants, *alternate payees,* and beneficiaries under pension plans covered by Title IV of ERISA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Names and social security numbers of plan participants and beneficiaries may be disclosed to the Internal Revenue Service (''IRS'') to obtain current addresses from tax return information and to the Social Security Administration (''SSA'') to obtain current addresses. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable.

2. Names and last known addresses may be disclosed to an official of a labor organization recognized as the collective bargaining representative of participants for posting in union halls or for other means of publication to obtain current addresses of participants and beneficiaries. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable.

3. Names, social security numbers, last known addresses, and dates of birth and death may be disclosed to private firms and agencies that provide locator services, including credit reporting agencies and debt collection firms or agencies, to locate participants and beneficiaries. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable. Disclosure shall be made only under a contract that subjects the firm or agency providing the service and its employees to the criminal penalties of the Privacy Act. The information so disclosed shall

be used exclusively pursuant to the terms and conditions of such contract and shall be used solely for the purposes prescribed therein. The contract shall provide that the information so disclosed shall be returned at the conclusion of the locating effort.

4. Names and addresses may be disclosed to licensees of the United States Postal Service (''USPS'') to obtain current addresses under the USPS's National Change of Address Linkage System (NCOA Link). Disclosure shall be made only under a contract that binds the licensee of the Postal Service and its employees to the criminal penalties of the Privacy Act. The contract shall provide that the records disclosed by PBGC shall be used exclusively for updating addresses under NCOA Link and must be returned to PBGC or destroyed when the process is completed. The records will be exchanged electronically in an encrypted format.

5. Names and last known addresses may be disclosed to other participants in, and beneficiaries under, a pension plan to obtain the current addresses of individuals. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable.

6. Names and last known addresses of participants and beneficiaries, and the names and addresses of participants' former employers, may be disclosed to the public to obtain current addresses of the individuals. Such information will be disclosed to the public only if the PBGC is unable to make benefit payments to the participants and beneficiaries because the address it has does not appear to be current or correct.

7. General Routine Uses G1 and G4 through G7, G9 through G11 (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and/or in electronic form, including magnetic tapes or discs.

RETRIEVABILITY:

Records are indexed by participant or beneficiary name and social security number.

SAFEGUARDS:

Records are kept in locked file cabinets in areas of restricted access under procedures that meet IRS safeguarding standards. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records of a participant or beneficiary who verifies the address are transferred to PBGC–6. All other records are retained for 2 years.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Benefits Administration and Payments Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part *4902.*

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

PBGC–6, *the SSA, the IRS, the public, labor organization officials, firms or agencies providing locator services, and USPS licensees.*

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–10

SYSTEM NAME:

Administrative Appeals File—PBGC.

SYSTEM CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants, beneficiaries, *and alternate payees* in terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended, who have filed administrative appeals with the PBGC's Appeals Board pursuant to 29 CFR 4003.1(b),, (6), (7), (8), or (10), Rules for Administrative Review of Agency Decisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of pension plans, *plan numbers,* names of participants, beneficiaries, and alternate payees, and personal information such as addresses, social security numbers, sex, dates of birth, dates of hire, salary, marital status (including domestic relations orders), medical records, dates of commencement of plan participation or employment, statements regarding employment, dates of termination of plan participation or retirement, benefit payment data, pay status, Social Security Administration (''SSA'') information, insurance claims and awards, workman's compensation awards, calculations of benefit amounts, calculations of amounts subject to *recoupment and/or recovery* correspondence and other information relating to appeals, and initial and final PBGC determinations (29 CFR 4003.22 and 4003.59). The records listed herein are included only as pertinent or applicable to the individual participant, beneficiary, and/or alternate payee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1055, 1056(d)(3), 1302, 1321, 1322, 1322a, 1341, 1342, 1345, and 1350.

PURPOSE(S):

This system of records is maintained for use in appeals of matters specified in *29* CFR 4003.1(b),, (6), (7), (8), and (10) and in subsequent agency actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. General Routine Uses G1, *and* G4 *through G12* apply to this system of records.

2. A record from this system of records may be disclosed to third parties who may be aggrieved by the decision of the Appeals Board under 29 CFR 4003.57.

3. A record from this system of records may be disclosed, upon request, to an attorney representative or a non-attorney representative who has a power of attorney for the subject individual, under 29 CFR 4003.6.

4. A record from this system of records may be disclosed to third parties, such as banks, insurance companies, and trustees, to make benefit payments to plan participants, beneficiaries, *and/or alternate payees.*

5. A record from this system of records may be disclosed to third parties, such as contractors and expert

witnesses, to obtain expert analysis of an issue necessary to resolve an appeal.

6. The name and social security number of a participant may be disclosed to an official of a labor organization recognized as the collective bargaining representative of the participant to obtain information relevant to the resolution of an appeal.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAIN AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and/or in electronic form.

RETRIEVABILITY:

Records are indexed by participant, beneficiary, *and/or alternate payee's name,* plan name, and appeal number or extension request number.

SAFEGUARDS:

Paper records are kept in file folders in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the PBGC's Administrative Schedule 1.8. Appeals Board files are transferred to an offsite storage facility at 2 years after the end of the year the matter was closed and destroyed 15 years after the end of the fiscal year that the matter was closed.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of the Appeals Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information in this system of records may be received from the plan administrator; the contributing sponsor (or other employer who maintained the plan), including any predecessor, successor, or member of the same controlled group; the labor organization recognized as the collective bargaining representative of a participant; the SSA; a third party affected by the decision; *or* the participant*, beneficiary and/or alternate payee.*

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–11

SYSTEM NAME:

Call Detail Records—PBGC.

SYSTEM CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contract employees, *PBGC* consultants, and officials of a labor organization representing PBGC employees who have made long distance or other toll calls from PBGC telephones or PBGC-issued portable electronic devices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to *the* use of PBGC telephones and PBGC-issued portable electronic devices to place toll calls and receive calls; records indicating *the* assignment of telephone extension numbers *and* PBGC-issued portable electronic devices to *PBGC* employees and other covered individuals; *and* records relating to *the* location of telephone extension *numbers.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; 44 U.S.C. 3101.

PURPOSE(S):

This system of records is maintained to control the costs of operating PBGC's telephone system by, among other things, monitoring telephone usage by PBGC employees and other covered individuals and obtaining reimbursement for unauthorized toll calls.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to *PBGC and* contract employees, consultants of PBGC, and officials of a labor organization representing PBGC employees to determine individual responsibility for telephone calls, but only to the extent that such disclosures consist of comprehensive lists of called numbers and length of calls.

2. *Names, addresses, and telephone numbers of employees, former employees, participants, and beneficiaries and information pertaining to debts to the PBGC may be disclosed to the Department of Treasury, the Department of Justice, a credit agency, and a debt collection firm to collect the debt. Disclosure to a debt collection firm shall be made only under a contract that binds any such contractor or employee of such contractor to the criminal penalties of the Privacy Act.*

3. General Routine Uses G1, G3, G4, G5, G7 through G*13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(*e*) *and* (5 U.S.C. 552a(b)(12)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and in electronic form, including magnetic tapes and discs.

RETRIEVABILITY:

Records are retrieved by name of employee or other covered individual, telephone extension number, *PBGC-issued portable electronic device number,* or telephone number called.

SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are kept in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records are retained for 7 years from the end of the fiscal year in which they were created in accordance with the PBGC's Administrative Schedule 1.7. Records are also maintained on PBGC's network back-up tapes. *Records existing on paper are destroyed by burning, pulping, or shredding. Records existing*

on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer, Office of Information Technology, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Telephone and PBGC-issued portable electronic device assignment records; call detail listings; and private telephone billing information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–12

SYSTEM NAME:

Personnel Security Investigation Records—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who require regular, ongoing access to federal facilities, information technology systems, or information classified in the interest of national security, including applicants for employment or contracts, federal employees, contractors, students, interns, volunteers, individuals authorized to perform or use services provided in Agency facilities (e.g., Fitness Center, etc.), and individuals formerly in any of these positions. The system also includes individuals accused of security violations or found in violation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, former names, birth date, birth place, home address, phone numbers, employment history, *residential history,* education and degrees earned, names of associates and references and their contact information, *citizenship, names of relatives, birthdates and places of relatives, citizenship of relatives, names of relatives who work for the federal government,* criminal history, *mental health history, drug use, financial information, fingerprints,* summary report of investigation, *results of suitability decisions, level of security clearance, date of issuance of security clearance, requests for appeal,* witness statements, investigator's notes, *tax return information, credit reports, security violations, circumstances of violation, and agency action taken.*

FORMS:

SF–85, SF–85P, SF–86, SF–87 (via eQIP).

This system of records is distinct from the OPM's Privacy Act system of records, OPM/Central–9 (Personnel Investigation Records), which covers records of personnel security investigations conducted by the OPM with respect to employees or applicants for employment with the PBGC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; *5 U.S.C. 3301;* 44 U.S.C. 3101; Executive Order 10450; 5 CFR 5.2(c) and (d); 5 CFR parts 731 and 736; OMB Circular No. A–130—Revised, Appendix III, 61 FR 6428; *and Homeland Security Presidential Directive 12.*

PURPOSE(S):

The records in this system of records are used to document and support decisions as to the suitability, eligibility, and fitness for service of applicants for federal employment and contract positions, and may include students, interns, or volunteers to the extent their duties require access to federal facilities, information, systems, or applications. *They may also be used to document security violations and supervisory actions taken.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to an authorized source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, or identify the type of information requested.

2. A record from this system of records may be disclosed to OPM, the Merit Systems Protection Board, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission to carry out its authorized functions (under 5 U.S.C. 1103, 1204, and 7105, and 42 U.S.C. 2000e–4, in that order).

3. General Routine Uses G1 through *G13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper and electronic form, *including magnetic tapes and discs.*

RETRIEVABILITY:

Records are *retrieved* by name, *Social Security number, or fingerprint.*

SAFEGUARDS:

Paper records are kept in file cabinets in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning *both network and system-specific* user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Records are destroyed upon notification of death or not later than 5 years after separation or transfer of employee, or no later than 5 years after contract relationship expires, whichever is applicable.

Records are also maintained on PBGC's network back-up tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Facilities and Services Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from the following: (a) Applications and other personnel and security forms; (b) personal interviews with the individual that is the subject of the investigation and with persons such as employers, references, neighbors, and associates who may have information about the subject of the investigation; (c) investigative records and notices of

personnel actions furnished by other federal agencies; (d) sources such as educational institutions, police departments, credit bureaus, probation officials, prison officials, and doctors; (e) public records such as court filings and publications such as newspapers, magazines, and periodicals; *and (f) tax records.*

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system of records is exempt from the access and contest and certain other provisions of the Privacy Act (5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f)) to the extent that disclosure would reveal the identity of a source who furnished information to the PBGC under an express promise of confidentiality or, prior to September 27, 1975, under an implied promise of confidentiality (5 U.S.C. 552a(k)(5)).

PBGC–13

SYSTEM NAME:

Debt Collection—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 and/or field benefit administrator, *and* plan administrator, *to include the following locations: 1275 K Street NW., Washington, DC 20005–4026; COOP Site, 2500 Grubb Road, Suites 140 and 221, Wilmington, DE 19810; and Kingstowne, 5971 Kingstowne Village Parkway, Alexandria, Virginia 22315.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Anyone who may owe a debt to PBGC, including but not limited to: *pension plans and/or sponsors owing insurance premiums, interest and penalties;* employees and former employees of PBGC; individuals who are consultants and vendors to PBGC; participants, *alternate payees,* and beneficiaries in terminating and terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (ERISA); and individuals who received payments to which they are not entitled.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pension plan filings; names; addresses; social security numbers; taxpayer identification numbers; employee numbers; *pay records,* travel vouchers, and related documents filed by *PBGC* employees; invoices filed by consultants and vendors to PBGC; records of benefit payments made to participants, *alternate payees,* and beneficiaries in terminating and terminated pension plans covered by Title IV of ERISA; and other relevant records relating to the debt including the amount, status, and history of the debt, and the program under which the debt arose. The records listed herein are included only as pertinent or applicable to the individual debtor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; 31 U.S.C. 3711(e) & (g); 44 U.S.C. 3101.

PURPOSE(S):

This system of records is maintained for the purpose of collecting debts owed to PBGC by various individuals, including, but not limited to, *pension plans and/or sponsors owing insurance premiums, interest and penalties;* PBGC employees and former employees, consultants and vendors; participants, *alternate payees,* and beneficiaries in terminating and terminated pension plans covered by Title IV of ERISA; and individuals who received payments to which they are not entitled. This system facilitates PBGC's compliance with the Debt Collection Improvement Act of 1996.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to the United States Department of *the* Treasury for cross-servicing to effect debt collection in accordance with 31 U.S.C. 3711(e).

2. *Names, addresses, and telephone numbers of employees, participants, and beneficiaries and information pertaining to debts owed by such individuals to the PBGC may be disclosed to a debt collection agency or firm to collect a claim. Disclosure to a debt collection agency or firm shall be made only under a contract that binds any such contractor or employee of such contractor to the criminal penalties of the Privacy Act. The information so disclosed shall be used exclusively pursuant to the terms and conditions of such contract and shall be used solely for the purposes prescribed therein. The contract shall provide that the information so disclosed shall be returned at the conclusion of the debt collection effort.*

3. *These records may be used to disclose information to any Federal agency, state or local agency, U.S. territory or commonwealth, or the District of Columbia, or their agents or contractors, including private collection agencies (consumer and commercial):*

a. *To facilitate the collection of debts through the use of any combination of various debt collection methods required or authorized by law, including, but not limited to;*

i. *Request for repayment by telephone or in writing;*

ii. *Negotiation of voluntary repayment or compromise agreements;*

iii. *Offset of Federal payments, which may include the disclosure of information contained in the records for the purpose of providing the debtor with appropriate pre-offset notice and to otherwise comply with offset prerequisites, to facilitate voluntary repayment in lieu of offset, and to otherwise effectuate the offset process;*

iv. *Referral of debts to private collection agencies, to Treasury designated debt collection centers, or for litigation;*

v. *Administrative and court-ordered wage garnishment;*

vi. *Debt sales;*

vii. *Publication of names and identities of delinquent debtors in the media or other appropriate places; and*

viii. *Any other debt collection method authorized by law;*

b. *To collect a debt owed to the United States through the offset of payments made by states, territories, commonwealths, or the District of Columbia;*

c. *To account or report on the status of debts for which such entity has a financial or other legitimate need for the information in the performance of official duties; or,*

d. *For any other appropriate debt collection purpose.*

4. General Routine Uses G1 through *G13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(e) *and* 5 U.S.C. 552a(b)(12).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained *by PBGC* in paper and/*or* electronic form, including *computer databases,* magnetic tapes or discs.

RETRIEVABILITY:

Records are indexed by any one or more of the following: Employer identification number; social security number; plan number; and name of debtor, plan, plan sponsor, plan

administrator, participant, *alternate payee,* or beneficiary.

SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are kept in file folders in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Pursuant to PBGC Records Schedule 1.2, records relating to the debts of consultants and vendors are *maintained for 7 years from the close of the fiscal year in which the date the debt is resolved (paid in full, waived, etc.).*

Pursuant to PBGC's Records Schedule 1.2, records relating to debts of PBGC employees and former employees involving payroll, leave, attendance, and travel are maintained for *7 years from the close of the fiscal year in which the date the debt is resolved (paid in full, waived, etc.).*

Pursuant to PBGC Records Schedule 2.1, except for repayment agreements and copies of payment advice, records relating to debts of participants and beneficiaries in terminating and terminated pension plans covered by Title IV of ERISA are *maintained for 7 years from the close of the fiscal year in which the date the debt is resolved (paid in full, waived, etc.).*

Pursuant to PBGC Records Schedule 1.2, records relating to debts of other individuals are *maintained for 7 years from the close of the fiscal year in which the debt is resolved (paid in full, waived, etc.).*

Records are also maintained on PBGC's network back-up tapes.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Operations Department, *and Director, Benefits Administration and Payments Department,* Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual, plan administrators, labor organization officials, *Debt collection agencies, or firms,* firms or agencies providing locator services, *other PBGC offices,* and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–14

SYSTEM NAME:

My Plan Administration Account Authentication Records—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who register to use the My PAA application to make PBGC filings and payments electronically via the PBGC's Internet Web site (*www.pbgc.gov*), including individuals acting for plan sponsors, plan administrators, and pension practitioners such as enrolled actuaries and other benefit professionals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the user's name, work telephone number, work email address, other contact information, a temporary PBGC-issued user ID and password, a user-selected user ID and password, and a secret question/secret answer combination for authentication. Records maintained for each pension plan for which the user intends to participate in making filings with the PBGC include the plan name, employer identification number (EIN), and plan number (PN); the plan administrator's name, address, phone number, and email address; other contact information; and the role that the user will play in the filing process, *e.g.,* creating and editing filings, signing filings electronically as the plan administrator, signing filings electronically as the enrolled actuary, or authorizing payments to the PBGC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302, 1306, 1307, 1341, and 1343; 44 U.S.C. 3101.

PURPOSE(S):

This system of records is maintained for use in verifying the identity of, and authenticating actions taken by, individuals who register to use the My PAA application to make PBGC filings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

PBGC General Routine Uses G1, G4, G5, G6, G7, G9, *G10, and G12* apply to this system of records (See Prefatory Statement of General Routine Uses).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in *electronic* form, including computer databases, *magnetic tapes and discs.*

RETRIEVABILITY:

Records are indexed by name, user ID, *email address, telephone number,* and by plan name and EIN/PN.

SAFEGUARDS:

The PBGC has adopted appropriate administrative, technical, and physical controls in accordance with the PBGC's Automated Information Systems Security Program to protect the security, integrity, and availability of the information, and to assure that records are not disclosed to unauthorized individuals.

RETENTION AND DISPOSAL:

Pursuant to PBGC Records Schedule 2.1, records are maintained for 7 years at which time PBGC disposes of them according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

An individual may access his or her records via the My PAA application available on the PBGC's Internet Web site (*www.pbgc.gov*), or by following the procedures outlined at 29 CFR Part 4902.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual and other registered users.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–15

SYSTEM NAME:

PBGC–15, Emergency Notification Records—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PBGC employees and individuals who work for PBGC as contractors or as employees of contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, title, organizational component, employer, PBGC and personal telephone numbers, PBGC and personal email addresses, other contact information, user ID, a temporary, PBGC-issued password, and a user-selected password.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; 44 U.S.C. 3101; Executive Order 12656, 53 FR 47491 (1988); Presidential Decision Directive 67 (1998).

PURPOSE(S):

This system of records is maintained for use in notifying PBGC employees and individuals who work for PBGC as contractors or employees of contractors of PBGC's operating status in the event of an emergency, natural disaster or other event affecting PBGC operations; for contacting employees or contractors who are out of the office on leave or after regular duty hours to obtain information necessary for official business; or to contact friends or family members if an employee or contractor experiences a medical emergency in the workplace.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. PBGC General Routine Uses G1, G4, G5, G7, G9*, through G11* (*see* Prefatory Statement of General Routine Uses) *apply to this system of records.*

2. *A record on an individual in this system of records may be disclosed to family members, emergency medical personnel, e.g., doctors, nurses, and/or paramedics, or to law enforcement officials in case of a medical or other emergency involving the PBGC employee without the subsequent notification to the individual identified in 5 U.S.C. 552a(b)(8).*

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained an electronic database that is available to authorized PBGC employees and contractors who have been granted access to PBGC's intranet Web site. Paper printouts are also maintained by authorized PBGC personnel in accordance with PBGC's continuity of operations plan.

RETRIEVABILITY:

Records are indexed by name, organizational component, or user ID and password.

SAFEGUARDS:

The PBGC has adopted appropriate administrative, technical, and physical controls in accordance with the PBGC's Automated Information Systems Security Program to protect the security, integrity, and availability of the information, and to assure that paper and electronic records are not disclosed to or accessed by unauthorized individuals.

RETENTION AND DISPOSAL:

Records are maintained until they are superseded or obsolete.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Facilities and Services Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

An employee or contractor may access his or her record with a valid user-id and password via the electronic notification and messaging system through PBGC's intranet Web site, or by following the procedures outlined at 29 CFR Part 4902.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–16

SYSTEM NAME:

PBGC–16, *PBGC Employee Directory.*

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PBGC employees *and contractors with PBGC network access.*

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records may contain the employee's *or contractor's* name, photograph, *personal description, skills, interests, schools, birthday, mobile phone number, home phone number,* organizational component and title, supervisor's name, PBGC street address, room or workstation number, *PBGC network ID, work email address,* and *work* telephone number and extension.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; *44 U.S.C. 3101.*

PURPOSE(S):

This system of records is used by PBGC employees and employees of PBGC's contractors to identify other PBGC employees by name, *face,* organizational component or title, or supervisor, *skills, interests, birth date, schools,* and to access contact information for PBGC employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

PBGC General Routine Uses G1 through *G13* apply to this system of records (*See* Prefatory Statement of General Routine Uses).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format in database that is available to authorized PBGC employees and employees of PBGC's contractors who have been granted access to PBGC's *network.*

RETRIEVABILITY:

Records are retrieved by name, *username,* organizational component, *job title, work phone number, office number, supervisor, work email, skills, interests, birth date, education, peers, and employee type (federal or contractor).*

SAFEGUARDS:

The PBGC has adopted appropriate administrative, technical, and physical controls to protect the security, integrity, and availability of information maintained in electronic format, and to assure that records are not disclosed to or accessed by anyone who does not have a need-to-know to perform official duties.

RETENTION AND DISPOSAL:

Records are maintained until the subject leaves PBGC employment.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Communications and Public Affairs Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Subject individual and PBGC personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

PBGC–17

SYSTEM NAME:

PBGC–17, Office of Inspector General Investigative File System—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Office of Inspector General, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC, 20005–4026; Washington National Records Center, 4205 Suitland Road, Suitland, MD 20746–8001; Iron Mountain Inc., 8001 Research Way, Springfield, VA 22153.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Persons who are named individuals in investigations conducted by OIG.

2. Complainants and subjects of complaints collected through the operation of the OIG Hotline.

3. Other individuals, including witnesses, sources, and members of the general public, who are named individuals in connection with investigations conducted by OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information within this system relates to OIG investigations carried out under applicable statutes, regulations, policies, and procedures. The investigations may relate to criminal, civil, or administrative matters. These OIG files may contain investigative reports; copies of personnel, financial, contractual, and property management records maintained by PBGC; information submitted by or about pension plan sponsors or plan participants; background data including arrest records, statements of informants and witnesses, and laboratory reports of evidence analysis; search warrants, summonses and subpoenas; and other information related to investigations. Personal data in the system may consist of names, Social Security numbers, addresses, fingerprints, handwriting samples, reports of confidential informants, physical identifying data, voiceprints, polygraph tests, photographs, and individual personnel and payroll information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. 3.

PURPOSE (S):

This system of records is used to maintain information related to investigations of criminal, civil, or administrative matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

PBGC General Routine Uses G1, G2, G4, G5, G7, G9, *through G13* (see Prefatory Statement of General Routine Uses) apply to this system of records. In addition:

1. A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings or after conviction may be disclosed to a federal, state, local, or foreign prison; probation, parole, or pardon authority; or any other agency or individual involved with the maintenance, transportation, or release of such a person.

2. A record relating to a case or matter may be disclosed to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings.

3. A record may be disclosed to any source, either private or governmental, when reasonably necessary to elicit information or obtain the cooperation of a witness or informant when conducting any official investigation or during a trial or hearing or when preparing for a trial or hearing.

4. A record relating to a case or matter may be disclosed to a foreign country, through the United States Department of State or directly to the representative of such country, under an international treaty, convention, or executive agreement; or to the extent necessary to assist such country in apprehending or returning a fugitive to a jurisdiction that seeks that individual's return.

5. A record originating exclusively within this system of records may be disclosed to other federal offices of inspectors general and councils comprising officials from other federal offices of inspectors general, as required by the Inspector General Act of 1978, as amended. The purpose is to ensure that OIG audit and investigative operations can be subject to integrity and efficiency peer reviews, and to permit other offices of inspectors general to investigate and report on allegations of misconduct by senior OIG officials as directed by a council, the President, or Congress. Records originating from any other PBGC systems of records, which may be duplicated in or incorporated into this system, also may be disclosed with all personally identifiable information redacted.

6. A record may be disclosed to the Department of the Treasury and the Department of Justice when the OIG seeks an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

7. A record may be disclosed to any governmental, professional or licensing authority when such record reflects on qualifications, either moral, educational or vocational, of an individual seeking to be licensed or to maintain a license.

8. A record may be disclosed to any direct or indirect recipient of federal funds, e.g., a contractor, where such record reflects problems with the personnel working for a recipient, and disclosure of the record is made to permit a recipient to take corrective action beneficial to the Government.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

A record may be disclosed to a ''consumer reporting agency,'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), to obtain

information in the course of an investigation, audit, or evaluations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in the records is maintained in a variety of media, including paper, magnetic tapes or discs, and an automated database. The records are maintained in limited access areas *during all times; electronic records are maintained in computers and networks that require multiple individual identifications and passwords.*

Records are also maintained on magnetic tapes and back-up hard drives.

RETRIEVABILITY:

Records are indexed by name, *Social Security Number,* subject category, or assigned case number.

SAFEGUARDS:

Paper records, computers, and computer-storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge. Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card-key systems, or other physical-access control methods. The use of computer systems is regulated with installed security software, computer-logon identifications, and operating-system controls including access controls, terminal and transaction logging, and file-management software.

RETENTION AND DISPOSAL:

1. Official investigative case files, evidence and custody files, and informant files are retained up to 11 years after closeout of the investigation. If significant, the files are transferred to the National Archives and Records Administration.

2. Information reports, investigative analysis reports, and inquiry files are retained up to 6 years after closeout of the investigation.

3. Internal administrative reports are retained up to 3 years after closeout of the investigation.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC, 20005–4026.

NOTIFICATION PROCEDURE:

This system is exempt from the notification requirements. However, consideration will be given to inquiries made in compliance with 29 CFR 4902.3.

RECORD ACCESS PROCEDURES:

This system is exempt from the access requirements. However, consideration will be given to requests made in compliance with 29 CFR 4902.3.

CONTESTING RECORD PROCEDURES:

Exempt. However, consideration will be given requests made in compliance with 29 CFR 4902.3.

RECORD SOURCE CATEGORIES:

The information contained in this system may be derived or received from individual complainants, witnesses, interviews conducted during investigations, Federal, state and local government records, individual or company records, claim and payment files, employer medical records, insurance records, court records, articles from publications, financial data, bank information, telephone data, insurers, service providers, other law enforcement organizations, grantees and subgrantees, contractors and subcontractors, pension plan sponsors and participants, and other sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j) and (k), PBGC has established regulations at 29 CFR 4902.11 that exempt records in this system depending on their purpose.

PBGC–18

SYSTEM NAME:

PBGC–18, Office of Negotiation and Restructuring Risk Management Early Warning System—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Office of Negotiations and Restructuring, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC, 20005–4026; Iron Mountain Inc., 8001 Research Way, Springfield, VA 22153.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Persons who are participants, beneficiaries, and alternate payees in pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (''ERISA'').

2. Pension plan sponsors, administrators, control group members and third parties, who are responsible for, manage, or have control over ERISA pension plans.

3. Other individuals, including information sources and members of the general public, who are identified in connection with investigations conducted pursuant to ERISA Section 4003(a), 29 U.S.C. 1303(a), and litigation conducted with regard to ERISA Title IV pension plans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information within this system relates to Corporate Finance and Restructuring Division (''CFRD''), Office of the Chief Counsel (''OCC''), and PBGC investigations and litigation carried out under applicable statutes, regulations, policies, and procedures concerning the potential termination and trusteeship of ERISA Title IV pension plans, as well as civil or administrative matters concerning companies or individuals associated with ERISA Title IV pension plans. These files may include reports; copies of financial and contractual records; background data including witness statements, summonses and subpoenas; and other information related to investigations and litigation. Personal data in the system may consist of names, gender, dates of birth, dates of hire, salary, marital status (including domestic relation orders), Social Security numbers and other Social Security Administration information, addresses, telephone numbers, time of plan participation, pay status, benefit data, eligibility status, health-related information, insurance information (where plan benefits are guaranteed by private insurers), initial and final PBGC determinations (29 CFR 4003.21 and 4003.59), federal income and other tax records, and information provided by labor unions or other organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. Sections 1055, 1056(d)(3), 1302, 1303, 1310, 1321, 1322, 1322a, 1341, 1342, 1343 and 1350; 44 U.S.C. 3101.

PURPOSE(S):

This system of records is used to maintain information related to investigations and litigation associated with the potential termination and trusteeship of ERISA pension plans.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

1. PBGC General Routine Uses G1, G4, G5, G6, G7, G9 *through G12* (see

Prefatory Statement of General Routine Uses) apply to this system of records. In addition:

2. A record from this system of records may be disclosed, in furtherance of proceedings under Title IV of ERISA, to a contributing sponsor (or other employer who maintained the plan), including any predecessor or successor, and any member of the same controlled group.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in the records is maintained in a variety of media, including paper, magnetic tapes or discs, and an automated, electronic database.

RETRIEVABILITY:

Records are indexed by name or other personal identifier or assigned case number.

SAFEGUARDS:

Paper records are kept in file folders in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by (1) assigning network user identification numbers to the individuals and by passwords set by authorized users that must be changed periodically; and, (2) assigning system user identification numbers to the individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

RETENTION AND DISPOSAL:

Core case file records contain records accumulated, prepared, collected or received, are destroyed, if not electric files, 40 years after the case is closed, and if electric files, 135 years after the case is closed.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Negotiations and Restructuring, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC, 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in the PBGC's regulations: 29 CFR Part 4902.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

The information contained in this system may be derived or received from pension plan participants, sponsors, administrators or third-parties, federal government records, individual or company records, claim and payment files, insurers, the Social Security Administration, labor organizations, firms or agencies providing locator services, court records, articles from publications, financial data, bank information, telephone data, and USPS licensees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

PBGC—19

SYSTEM NAME:

PBGC–19, Office of General Counsel Case Management System—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Office of General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; Iron Mountain Inc., 8001 Research Way, Springfield, VA 22153.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Persons who are participants, beneficiaries, and alternate payees in pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (''ERISA'').

2. Pension plan sponsors, administrators, control group members and third parties, who are responsible for, manage, or have control over ERISA pension plans.

3. Other individuals, including information sources and members of the general public, who are identified in connection with investigations conducted pursuant to ERISA Section 4003(a), 29 U.S.C. 1303(a), and litigation conducted with regard to ERISA pension plans.

4. Persons who are parties, plaintiff or defendant, or witnesses in civil litigation or administrative proceedings involving or concerning the PBGC or its officers or employees. This system does not include information on every civil litigation or administrative proceeding involving the PBGC or its officers and employees.

5. Persons who are the subject of a breach of personally identifiable information.

6. Persons who are potential contractors or contractors with PBGC.

7. Persons who receive ethics advice from PBGC ethics counselors and those who file financial disclosure reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system pertain to a broad variety of litigation relating to ERISA Title IV, the appeals of pension benefit determinations, labor and employment, and procurement matters. These files may include reports; copies of financial and contractual records; background data including personnel records, witness statements, summonses and subpoenas, discovery requests and responses, and resumes; ethics advice; and breach reports and supporting documentation. Personal data in the system may consist of names, gender, dates of birth, dates of hire, dates of death, salary, marital status (including domestic relation orders), medical records, Social Security numbers and other Social Security Administration information, addresses, telephone numbers, email addresses; time of plan participation, pay status, benefit data, eligibility status, health-related information, insurance information (where plan benefits are guaranteed by private insurers), initial and final PBGC determinations (29 CFR 4003.21 and 4003.59), appeals of PBGC final determinations; and information provided by labor unions or other organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. Sections 1055, 1056(d)(3), 1302, 1303, 1310, 1321, 1322, 1322a, 1341, 1342, 1343 and 1350; 5 U.S.C. app. 105; 5 U.S.C. 301; 44 U.S.C. 3101.

PURPOSE(S):

Case records are maintained for the purpose of litigating or resolving any case or matter handled by the Office of the General Counsel. Ethics records document the activities of PBGC's ethics program, including financial disclosure reports; ethics agreements; outside employment and activity records; referrals of violations of criminal conflict of interest statutes; ethics determination, advice, consultation, and training records; and other commonly held ethics program records. The privacy breach reports and supporting documentation allow for program officials to determine whether the agency can improve the protection of personally identifiable information and to mitigate any breaches.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

PBGC General Routine Uses G1, G2, G3, G4, G5, G6, G7, G8, G9 *through G13* (see Prefatory Statement of General Routine Uses) apply to this system of records. In addition:

1. A record from this system of records may be disclosed, in furtherance of proceedings under Title IV of ERISA, to a contributing sponsor (or other employer who maintained the plan), including any predecessor or successor, and any member of the same controlled group.

2. Names, addresses, and telephone numbers of employees, former employees, participants, and beneficiaries and information pertaining to debts to the PBGC may be disclosed to the Department of Treasury, the Department of Justice, a credit agency, and a debt collection firm to collect the debt. Disclosure to a debt collection firm shall be made only under a contract that binds any such contractor or employee of such contractor to the criminal penalties of the Privacy Act.

3. Information may be disclosed to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court order or in connection with criminal law proceedings.

4. Information may be provided to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

5. Information may be provided to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

6. Relevant and necessary information may be disclosed to a former employee of PBGC for the purposes of: (1) Responding to an official inquiry by federal, state, or local government entity or professional licensing authority; or, (2) facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where PBGC requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

7. A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement.

8. A record may be disseminated to a foreign country, through the United states Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in the records is maintained in a variety of media, including paper, magnetic tapes or discs, and an automated, electronic database.

RETRIEVABILITY:

Records are indexed by name or other personal identifier or assigned case number.

SAFEGUARDS:

Paper records are kept in file folders in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning unique user identification numbers to individuals who are authorized to access the records, and by passwords set by these users that must be changed periodically.

RETENTION AND DISPOSAL:

1. Pursuant to NARA General Records Schedule 25.1, ethics advice is destroyed and deleted 6 years after the end of the fiscal year after the matter was closed. Public and Confidential Financial Disclosure reports are destroyed and deleted 6 years after they are filed with the agency.

2. Pursuant to PBGC's Simplified Records Schedule 1.7, legal administrative records such as legal memoranda and other legal advice materials which are not part of a litigation matter and which are critical to an understanding of that matter are destroyed or deleted 20 years after the end of the fiscal year in which the latest document use occurred.

3. Pursuant to PBGC's Simplified Records Schedule 1.8, legal administrative records which have been associated with a non-ERISA litigation case, such as agreements and financial instruments, background case files, investigation and case management files, and official litigation, together with all other records with which they have been associated by the case number or identifier, are destroyed or deleted 15 years after the end of the fiscal year in which the case or matter was finished or closed.

4. Pursuant to PBGC's Simplified Records Schedule 2.3, core case mission-related file records, such as ERISA litigation, plan terminations, and benefits, and which are accumulated, prepared, collected or received, are destroyed, if not electric files, 40 years after the case is closed, and if electric files, 135 years after the case is closed.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel of Legal Technology and Administration, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in the PBGC's regulations: 29 CFR Part 4902.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

The information contained in this system may be derived or received from pension plan participants, sponsors, administrators or third-parties, federal government records, employees and former employees, contractors, witnesses, individual or company records, claim and payment files, insurers, the Social Security Administration, labor organizations, court records, articles from publications, financial data, bank information, telephone data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

PBGC—20

SYSTEM NAME:

Identity Management System (IDMS).

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026. Siemens Industry, Inc., 6435 Virginia Manor Road, Beltsville, MD 20705.

SECURITY CLASSIFICATION:

Most identity records are not classified. However, in some cases,

records of certain individuals, or portions of some records, may be classified in the interest of national security.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who require regular, ongoing access to agency facilities, information technology systems, or information classified in the interest of national security, including applicants for employment or contracts, federal employees, contractors, students, interns, and volunteers, and individuals formerly in any of these positions. The system also includes individuals authorized to perform or use services provided in agency facilities (e.g., Fitness Center). The system does not apply to occasional visitors or short-term guests to whom PBGC will issue temporary identification and credentials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on individuals issued credentials by PBGC include the following data fields: Full name, Social Security number; date of birth; signature; image (photograph); fingerprints; hair color; eye color; height; weight; organization/office of assignment; company name; telephone number; copy of background investigation form; Personal Identity Verification (PIV) card issue and expiration dates; personal identification number (PIN); results of background investigation; PIV request form; PIV registrar approval signature; PIV card serial number; emergency responder designation; PIV card expiration date; copies of documents used to verify identification or information derived from those documents such as document title, document issuing authority, document number, document expiration date, document other information; and, level of national security clearance and expiration date.

Records maintained on card holders entering PBGC facilities: Name, PIV Card serial number; date, time, and location of entry and exit; company name; and, level of national security clearance and expiration date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Federal Information Security Act (Pub. L. 104–106, sec. 5113); Electronic Government Act (Pub. L. 104–347, sec. 203); the Paperwork Reduction Act of 1995 (44 U.S.C. 3501); and the Government Paperwork Elimination Act (Pub. L. 105–277, 44 U.S.C. 3504); Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004; Federal Property and Administrative Act of 1949, as amended.

PURPOSE:

The primary purposes of the system are: (a) To ensure the safety and security of PBGC facilities, systems, or information, and our occupants and users; (b) To verify that all persons entering federal facilities, using federal information resources, or accessing classified information are authorized to do so; (c) to track and control PIV cards issued to persons entering and exiting the facilities, using systems, or accessing classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

(1) Except as noted on Forms SF 85, 85–P, and 86, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether Federal, foreign, State, local, or tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

(2) To notify another federal agency when, or verify whether, a PIV card is no longer valid.

(3) General Routine Uses G1 *through G13* (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and in paper files.

RETRIEVABILITY:

Records are retrievable by name, Social Security number, PIV card serial number, image (photograph), fingerprint.

SAFEGUARDS:

Paper records are kept in file cabinets in areas of restricted access that are locked after office hours. Electronic records are stored on computer networks and protected by assigning *both network and system-specific* user identification numbers to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

GSA maintains an audit trail which is reviewed periodically to identify unauthorized access. Persons given roles in the PIV process must complete training specific to their roles to ensure they are knowledgeable about how to input and protect individually identifiable information.

RETENTION AND DISPOSAL:

Records relating to persons covered by this system are retained in accordance with General Records Schedule 18, Item 17. Unless retained for specific, ongoing security investigations, records of access are maintained for two years. All other records relating to employees are destroyed two years after ID security card expiration date.

In accordance with HSPD–12, PIV Cards are deactivated within 18 hours of cardholder separation, loss of card, or expiration. The information on PIV Cards is maintained in accordance with General Records Schedule 11, Item 4. PIV Cards are destroyed by shredding 90 days after deactivation.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable PBGC media sanitization practice.

SYSTEM MANAGER (S) AND ADDRESS:

Director, Facilities and Services Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURES:

Procedures are detailed in PBGC regulations: 29 CFR Part 4902.

RECORDS ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Same as notification procedures.

RECORD SOURCE CATEGORIES:

Employee, contractor, or applicant; sponsoring agency; former sponsoring agency; other federal agencies; contract employer; former employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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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)

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