AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 77 Friday,
No. 208 October 26, 2012

Pages 65251–65454

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

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

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

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

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

FEDERAL REGISTER WORKSHOP

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

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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WHEN: Tuesday, November 13, 2012
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 77, No. 208

Friday, October 26, 2012

Administrative Conference of the United States
NOTICES
Meetings:
Committee on Rulemaking, 65358

Agriculture Department
See Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65358–65359

Antitrust Division
NOTICES
Notices Pursuant to National Cooperative Research and Production Act:
Pistoia Alliance, Inc., 65413–65414

Antitrust
See Antitrust Division

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Statement of Organization, Function, and Delegation of Authority, 65386–65389
Statement of Organization, Functions, and Delegation of Authority, 65390

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65390–65391

Children and Families Administration
NOTICES
Awards of Noncompetitive Single Source Replacement Grants:
Larimer County Department of Human Services, Fort Collins, CO, 65391–65392

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 65365–65366

Committee for the Implementation of Textile Agreements
NOTICES
Interim Procedures for Considering Requests from Public:
Textile and Apparel Safeguard Actions on Imports from Colombia, 65366–65369

Copyright Office, Library of Congress
RULES
Exemption to Prohibition on Circumvention:
Copyright Protection Systems for Access Control Technologies, 65260–65279

Defense Department
NOTICES
Privacy Act; Systems of Records, 65370–65372

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Family Education Loan Program Income Based Repayment Plan Request and Alternative Documentation of Income, 65372
Federal Student Aid; Student Assistance General Provisions—Student Right-to-Know, 65373
Foreign School Supplemental Application System, 65372–65373

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See National Nuclear Security Administration
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board, Idaho National Laboratory, 65374

Energy Efficiency and Renewable Energy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65374–65375

Environmental Protection Agency
RULES
Additional Air Quality Designations:
2006 24-Hour Fine Particle National Ambient Air Quality Standards, 65310–65314
Approvals and Promulgations of Implementation Plans:
California; Revisions to the California State Implementation Plan Pesticide Element, 65294–65305
Approvals of Air Quality Implementation Plans:
California; San Joaquin Valley Unified Air Pollution Control District; Prevention of Significant Deterioration, 65305–65310
Final Authorization of State Hazardous Waste Management Program Revisions:
Missouri, 65314–65320
PROPOSED RULES
Approvals and Promulgations of Air Quality Implementation Plans:
Indiana; Delaware County (Muncie), Indiana Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets, 65341–65346
Authorization of State Hazardous Waste Management Program Revisions:
Missouri, 65351–65352

Determinations of Attainment Regarding Applicability of Clean Air Act Requirements:
California; Sacramento Nonattainment Area for 2006 Fine Particle Standard, 65346–65351
Standards of Performance for Stationary Gas and Stationary Combustion Turbines, 65351
NOTICES
Access by EPA Contractors to Confidential Business Information Related to Greenhouse Gas Reporting Program, 65377–65379
Cross-Media Electronic Reporting:
Authorized Program Revision Approval, State of Wyoming, 65379
Environmental Impact Statements; Availability, etc., 65379–65380
Meetings:
Ozone Transport Commission and Mid-Atlantic Northeast Visibility Union, 65380
Proposed Administrative Settlements:
Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act, 65380–65381

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Amendment of Area Navigation Route:
T–240, Alaska, 65253–65254
Amendment of Area Navigation Routes:
Q–42 and Q–480, Pennsylvania, 65254–65255
Establishments and Amendments of Class E Airspace:
Reidsville and Vidalia, GA, 65255–65256
IFR Altitudes:
Miscellaneous Amendments, 65256–65260
PROPOSED RULES
Proposed Modifications of Class B Airspace:
Las Vegas, NV, 65332–65340
NOTICES
Criteria Requirements and Application Procedure for Participation in Military Airport Program:
Opportunity to Participate, 65440–65443
Meetings:
Commercial Space Transportation Advisory Committee; Teleconference, 65443–65444

Federal Communications Commission
RULES
Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges; Consumer Information and Disclosure; Truth-in-Billing Format, 65320–65321
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65381–65382

Federal Election Commission
PROPOSED RULES
Rulemaking Petitions:
Electioneering Communications Reporting, 65332

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 65375–65376

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 65382
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 65382

Fish and Wildlife Service
RULES
User Fee Exemption Program for Low-Risk Importations and Exportations:
Importation, Exportation, and Transportation of Wildlife, 65321–65326
NOTICES
Environmental Impact Statements; Availability, etc.:
Tehachapi Uplands Multiple Species Habitat Conservation Plan; Kern County, CA, 65398–65401

Food and Drug Administration
PROPOSED RULES
Filings of Food Additive Petitions:
Ajinomoto Co., Inc.; Amendment, 65340–65341

Foreign-Trade Zones Board
NOTICES
Expansions of Foreign-Trade Zones:
Foreign-Trade Zone 158, Vicksburg-Jackson, MS, 65359–65360
Grants of Authority for Subzone Status:
Xylem Water Systems U.S.A., LLC, Auburn, NY, 65360
Proposed Production Activities:
Foreign-Trade Zone 168, Dallas/Ft. Worth, TX; Richemont North America, Inc. dba Cartier, Grand Prairie, TX, 65360
Reorganizations/Expansions under Alternative Site Framework:
Galveston, TX, 65361

Forest Service
NOTICES
Outreach for New Resource Advisory Committee Members:
Olympic Peninsula Resource Advisory Committee, 65359

General Services Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Foreign Affairs Security Training Center, Nottoway County, VA; Meeting, 65382–65383

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
NOTICES
Charter Renewals:
Certain Federal Advisory Committees, 65383–65384
Intent to Establish 2015 Dietary Guidelines Advisory Committee and Solicitation of Nominations for Appointment to Membership, 65384–65385

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65392–65393

Homeland Security Department
See Transportation Security Administration
See U.S. Customs and Border Protection
NOTICES
Meetings:
Homeland Security Advisory Council, 65394
President's National Security Telecommunications Advisory Committee, 65393

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Home Mortgage Disclosure Act Loan/Application Register, 65396
Section 8 Contract Renewal Policy—Guidance for Renewal of Project-Based Section 8 Contracts, 65395–65396
Federal Property Suitable as Facilities to Assist the Homeless, 65397–65398

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Ocean Energy Management Bureau

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65447–65448

International Trade Administration
NOTICES
Antidumping Duty Investigations; Results, Extensions, Amendments, etc.:
Xanthan Gum from Austria and People's Republic of China, 65361
Antidumping Duty Order Sunset Reviews; Results, Extensions, Amendments, etc.:
Folding Gift Boxes from People's Republic of China, 65361–65363

International Trade Commission
NOTICES
Investigations:
Certain Cameras and Mobile Devices, Related Software and Firmware, and Components thereof and Products Containing Same, 65413

Justice Department
See Antitrust Division

Labor Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
1,3–Butadiene Standard, 65414–65415
Lead in Construction Standard, 65414
Lead in General Industry Standard, 65415–65416

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Restoration Design Energy Project and Proposed Resource Management Plan Amendments, AZ, 65401–65403
Public Land Orders:
No. 7804; Partial Revocation of Secretarial Order Dated December 4, 1909, 65403

Library of Congress
See Copyright Office, Library of Congress

Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation
NOTICES
Meetings; Sunshine Act, 65416

National Archives and Records Administration
NOTICES
Meetings:
Advisory Committee on the Electronic Records Archives, 65416

National Highway Traffic Safety Administration
PROPOSED RULES
Make Inoperative Exemptions:
Vehicle Modifications to Accommodate People with Disabilities, Ejection Mitigation, 65352–65356
NOTICES
Receipts of Petitions:
Decision that Nonconforming 1991 Mercedes-Benz G-class (463 Chassis) Multi-Purpose Passenger Vehicles are Eligible for Importation, 65444–65445

National Nuclear Security Administration
NOTICES
Additions of Properties:
Kansas City Plant Facilities, 65376–65377

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Pollock in Statistical Area 620 in Gulf of Alaska, 65330–65331
Fisheries Off West Coast States:
Modifications of West Coast Commercial and Recreational Salmon Fisheries, 65329–65330
Magnuson-Stevens Fishery Conservation and Management Act Provisions:
Fisheries of Northeastern United States; Northeast Multispecies Fishery; Interim Action; Rule Extension, 65326–65329
PROPOSED RULES
Fisheries of the Caribbean, Gulf of Mexico and South Atlantic:
Snapper–Grouper Fishery off Southern Atlantic States; Amendment 18B, 65356–65357
NOTICES
Meetings:
Mid-Atlantic Fishery Management Council, 65363–65364
New England Fishery Management Council, 65363–65364

National Park Service
NOTICES
Inventory Completions:
Maxwell Museum of Anthropology, University of New Mexico, Albuquerque, NM, 65403–65404
Maxwell Museum of Anthropology, University of New Mexico, Albuquerque, NM; Correction, 65404–65405
National Register of Historic Places:
Pending Nominations and Related Actions, 65405–65406
Requests for Nominations:
Native American Graves Protection and Repatriation Review Committee, 65406–65408

National Science Foundation
NOTICES
Meetings:
Business and Operations Advisory Committee, 65417
Proposal Review Panel for Computing Communication Foundations, 65417

Nuclear Regulatory Commission
NOTICES
Atomic Safety and Licensing Board Reconstitutions:
Northern States Power Co.; Prairie Island Nuclear Generating Plant Independent Spent Fuel Storage Installation, 65417
Interim Staff Guidance:
Draft Japan Lessons-learned Project Directorate; Flooding Hazard Reevaluation; Compliance with Information Request, 65417–65419
Meetings; Sunshine Act, 65419
Partial Directors Decisions; Issuances:
Virginia Electric and Power Co.; License Numbers NPF–4 and NPF–7, 65419–65420

Ocean Energy Management Bureau
NOTICES
Final Notices of Sales:
Outer Continental Shelf Western Planning Area Gulf of Mexico Oil and Gas Lease Sale 229, 65408–65413

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Regulatory Commission
NOTICES
Meetings; Sunshine Act, 65420–65421

Postal Service
RULES
Domestic Competitive Products Pricing and Mailing Standards Changes, 65279–65293

Presidential Documents
ADMINISTRATIVE ORDERS
Congo; Continuation of National Emergency (Notice of October 24, 2012), 65251

Securities and Exchange Commission
NOTICES
Applications:
Legg Mason ETF Trust, et al., 65425–65431
Neuberger Berman Alternative Funds, et al., 65421–65425
Self-Regulatory Organizations; Proposed Rule Changes:
Financial Industry Regulatory Authority, Inc., 65431–65438
Municipal Securities Rulemaking Board, 65433–65434
Suspension of Trading Orders:
China Voice Holding Corp., et al., 65438–65439
MedLink International, Inc., 65438

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Supplemental Registration for Diversity Immigrant Visa Program, 65439

Surface Transportation Board
NOTICES
Acquisition and Operation Exemptions:
Decatur Junction Railway Co.; Line of Illinois Central Railroad Co., 65446
Turtle Creek Industrial Railroad, Inc.; Consolidated Rail Corp., 65446
Control Exemptions:
Iowa Pacific Holdings, LLC, Permian Basin Railways to Cape Rail, Inc., Massachusetts Coastal Railroad, LLC, 65446–65447

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Tariff-Rate Quotas:
Imports of Sugar; Implementation of United States—Panama Trade Promotion Agreement, 65439–65440

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
See Transportation Security Administration

Transportation Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Aviation Security Infrastructure Fee Records Retention, 65394–65395

Treasury Department
See Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65447

U.S. Customs and Border Protection
NOTICES
Air Cargo Advance Screening Pilot Program, 65395

Veterans Affairs Department
NOTICES
Funding Availabilities:
Supportive Services for Veteran Families Program, 65448–65453

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Memorandums:

Notice of October 24, 2012 65251

11 CFR

Proposed Rules:

104 65332

14 CFR

71 (3 documents) 65253, 65264, 65255

95 65256

Proposed Rules:

71 65332

21 CFR

Proposed Rules:

172 65340

37 CFR

201 65260

39 CFR

111 65279

40 CFR

52 (2 documents) 65294, 65305

81 65310

271 65314

Proposed Rules:

52 (2 documents) 65341, 65346

60 65351

271 65351

47 CFR

64 65320

49 CFR

Proposed Rules:

595 65352

50 CFR

14 65321

648 65326

660 65329

679 65330

Proposed Rules:

622 65356

Federal Register
Vol. 77, No. 208
Friday, October 26, 2012

Presidential Documents

Title 3—

The President

Notice of October 24, 2012

Continuation of the National Emergency With Respect to the Situation in or in Relation to the Democratic Republic of the Congo

On October 27, 2006, by Executive Order 13413, the President declared a national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo and, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), ordered related measures blocking the property of certain persons contributing to the conflict in that country. The President took this action to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the situation in or in relation to the Democratic Republic of the Congo, which has been marked by widespread violence and atrocities that continue to threaten regional stability.

Because this situation continues to pose an unusual and extraordinary threat to the foreign policy of the United States, the national emergency declared on October 27, 2006, and the measures adopted on that date to deal with that emergency, must continue in effect beyond October 27, 2012. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13413.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
Washington, October 24, 2012.

[FR Doc. 2012–26547
Filed 10–25–12; 8:45 am]
Billing code 3295–F3

Rules and Regulations

Federal Register
Vol. 77, No. 208
Friday, October 26, 2012

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1048; Airspace Docket No. 12–AAL–7]

RIN 2120–AA66

Amendment of Area Navigation Route T–240; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends the legal description of area navigation (RNAV) route T–240 in Alaska by removing one waypoint that is no longer required and has been deleted from the National Airspace System Resources (NASR) database. In addition, the route description is amended to include the names of the navigation aids that comprise the route. The alignment of T–240 is not affected by this action.

DATES: *Effective Dates:* 0901 UTC, January 10, 2013. The Director of the **Federal Register** approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

RNAV route T–240 extends between the Bettles, AK, VHF omnidirectional range/distance measuring equipment (VOR/DME) navigation aid and the Deadhorse, AK, VOR/DME. The route description currently includes the ''NAMRE'' waypoint. The FAA determined that NAMRE is no longer required for air traffic control purposes and has deleted NAMRE from the NASR database.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the legal description of RNAV route T–240 in Alaska to remove the NAMRE waypoint. The NAMRE waypoint is no longer required for air traffic control purposes and has been deleted from the NASR database. The removal of NAMRE does not affect the alignment or use of T–240. In addition, this action updates the description of T–240 by adding the names of the navigation aids that form the route. This standardizes the format for RNAV route descriptions in FAA Order 7400.9.

Since this action merely involves editorial changes to the legal description of RNAV route T–240, and does not involve a change in the dimensions or operating requirements of the affected route, I find that notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it revises the legal description of an RNAV route to maintain currency.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be published subsequently in the Order.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 6011 United States area navigation routes

* * * * *

T–240 Bettles, AK to Deadhorse, AK [Amended]

Bettles, AK (BTT) VOR/DME
(Lat. 66°54′18″ N., long. 151°32′09″ W.)
Deadhorse, AK (SCC) VOR/DME
(Lat. 70°11′57″ N., long. 148°24′58″ W.)

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2012–26324 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–1047; Airspace Docket No. 12–AEA–11]

RIN 2120–AA66

Amendment of Area Navigation Routes Q–42 and Q–480; PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends the legal descriptions of area navigation (RNAV) routes Q–42 and Q–480 by changing the name of one waypoint common to each route. To avoid confusion with a similar sounding waypoint this will enhance safety within the National Airspace System and does not change the alignment or operating requirements of the routes.

DATES: *Effective Dates:* 0901 UTC, January 10, 2013. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

RNAV routes Q–42 and Q–480 both include the waypoint ''BTRIX'' in their descriptions. Q–480 also includes a waypoint named ''BEETS.'' With the extensive use of the routes in recent months, air traffic control facilities have identified a problem whereby ''BTRIX'' is being confused with ''BEETS.'' To eliminate any chance of confusion and enhance safety, the FAA is changing the name ''BTRIX'' to ''MIKYG'' in the descriptions of Q–42 and Q–480. This action is a name change only. The geographic position of the waypoint is not changing and the current alignments of Q–42 and Q–480 are not affected.

In addition, the geographic coordinates for the ''BEETS'' waypoint, in the description of Q–480, are changed from ''lat. 39°57′20″ N., long. 77°26′59″ W.,'' to ''lat. 39°57′21″ N., long. 77°27′00″ W.'' This is a minor change by adding one second of latitude and one second of longitude due to more accurate plotting of the point. This change does not alter the alignment of Q–480.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by changing the name of one waypoint in the descriptions of RNAV routes Q–42 and Q–480 from ''BTRIX'' to ''MIKYG.'' In addition, a minor increase of one second of latitude and one second of longitude is made to the coordinates of the BEETS waypoint in Q–480.

Since this action involves only editorial changes to the legal descriptions of RNAV routes and does not change the dimensions or operating requirements of the affected routes, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it updates the legal descriptions of RNAV routes to avoid the use of similar sounding waypoint names.

United States Area Navigation Routes are published in paragraph 2006 of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document will be published subsequently in the Order.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 2006 United States area navigation routes

* * * * *

Q42 Kirksville, MO (IRK) to ZIMMZ, NJ [Amended]

Kirksville, MO (IRK)	VORTAC	(Lat. 40°08′06″ N., long. 92°35′30″ W.)
STRUK, IL	WP	(Lat. 40°14′04″ N., long. 90°18′22″ W.)
Danville, IL (DNV)	VORTAC	(Lat. 40°17′38″ N., long. 87°33′26″ W.)
Muncie, IN (MIE)	VOR/DME	(Lat. 40°14′14″ N., long. 85°23′39″ W.)
HIDON, OH	WP	(Lat. 40°10′00″ N., long. 81°37′27″ W.)
BUBAA, OH	WP	(Lat. 40°10′27″ N., long. 80°58′17″ W.)
PSYKO, PA	WP	(Lat. 40°08′37″ N., long. 79°09′13″ W.)
BRNAN, PA	WP	(Lat. 40°08′07″ N., long. 77°50′07″ W.)
HOTEE, PA	WP	(Lat. 40°20′36″ N., long. 76°29′37″ W.)
MIKYG, PA	WP	(Lat. 40°36′06″ N., long. 75°49′11″ W.)
SPOTZ, PA	WP	(Lat. 40°45′55″ N., long. 75°22′59″ W.)
ZIMMZ, NJ	WP	(Lat. 40°48′11″ N., long. 75°07′25″ W.)

Q480 ZANDR, OH to Kennebunk, ME (ENE) [Amended]

ZANDR, OH	FIX	(Lat. 40°00′19″ N., long. 81°31′58″ W.)
Bellaire, OH (AIR)	VOR/DME	(Lat. 40°01′01″ N., long. 80°49′02″ W.)
LEJOY, PA	FIX	(Lat. 40°00′12″ N., long. 79°24′54″ W.)
VINSE, PA	FIX	(Lat. 39°58′16″ N., long. 77°57′21″ W.)
BEETS, PA	WP	(Lat. 39°57′21″ N., long. 77°27′00″ W.)
HOTEE, PA	WP	(Lat. 40°20′36″ N., long. 76°29′37″ W.)
MIKYG, PA	WP	(Lat. 40°36′06″ N., long. 75°49′11″ W.)
SPOTZ, PA	WP	(Lat. 40°45′55″ N., long. 75°22′59″ W.)
CANDR, NJ	WP	(Lat. 40°58′16″ N., long. 74°57′35″ W.)
JEFFF, NJ	WP	(Lat. 41°14′46″ N., long. 74°27′43″ W.)
Kingston, NY (IGN)	VOR/DME	(Lat. 41°39′56″ N., long. 73°49′20″ W.)
LESWL, CT	WP	(Lat. 41°53′31″ N., long. 73°19′20″ W.)
Barnes, MA (BAF)	VORTAC	(Lat. 42°09′43″ N., long. 72°42′58″ W.)
Kennebunk, ME (ENE)	VORTAC	(Lat. 43°25′32″ N., long. 70°36′49″ W.)

Issued in Washington, DC, on October 16, 2012.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2012–26331 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0385; Airspace Docket No. 12–ASO–23]

Establishment of Class E Airspace; Reidsville, GA, and Amendment of Class E Airspace; Vidalia, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E Airspace at Reidsville, GA. Separation of existing Class E airspace surrounding Swinton Smith Field at Reidsville Municipal Airport, Reidsville, GA, from the Class E airspace of Vidalia Regional Airport, Vidalia, GA, has made this action necessary to enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport. This action also changes the names of both airports and updates the airport's geographic coordinates.

DATES: Effective 0901 UTC, January 10, 2013. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On July 5, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace extending upward from 700 feet above the surface at Swinton Smith Field at Reidsville Municipal Airport, Reidsville, GA, to accommodate the separation of existing Class E airspace surrounding Vidalia Regional Airport, Vidalia, GA, (77 FR 39653) Docket No. FAA–2012–0385. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Geographic coordinates for both airports also are adjusted.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface at Swinton Smith Field at Reidsville Municipal Airport, formerly Reidsville Airport, Reidsville, GA, and amends Class E airspace at Vidalia, Regional Airport, formerly Vidalia Municipal Airport, Vidalia, GA, to provide the controlled airspace required to accommodate the separation of existing Class E airspace surrounding Vidalia Regional Airport. Geographic coordinates for both airport are adjusted to be in concert with the FAAs aeronautical database. This action is necessary for the safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace surrounding Swinton Smith Field at Reidsville Municipal Airport, Reidsville, GA and amends controlled airspace at Vidalia Regional Airport, Vidalia, GA.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

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

* * * * *

ASO GA E5 Vidalia, GA [Amended]

Vidalia Regional Airport, GA
(Lat. 32°11′34″ N., long. 82°22′16″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Vidalia Regional Airport.

* * * * *

ASO GA E5 Reidsville, GA [New]

Swinton Smith Field at Reidsville Municipal Airport, GA
(Lat. 32°03′32″ N., long. 82°09′06″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Swinton Smith Field at Reidsville Municipal Airport.

Issued in College Park, Georgia, on October 11, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–26330 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30868; Amdt. No. 503]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective:* 0901 UTC, November 15, 2012.

FOR FURTHER INFORMATION CONTACT: Rick Dunham, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on October 12, 2012.

John M. Allen,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, July 26, 2012.

PART 95—[AMENDED]

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 503 Effective Date November 15, 2012]

From	To	MEA	MAA
§ 95.4000 HIGH ALTITUDE RNAV ROUTES			
§ 95.4062 RNAV ROUTE Q62 Is Amended by Adding			
WATSN, IN FIX	DAIFE, IN FIX	18000	45000
DAIFE, IN FIX	NOLNN, OH FIX	18000	45000

From	To	MEA
§ 95.6001 VICTOR ROUTES—U.S.		
§ 95.6001 VOR FEDERAL AIRWAY V1 Is Amended to Read in Part		
CHARLESTON, SC VORTAC	KIMMY, SC FIX	2000
KIMMY, SC FIX	GRAND STRAND, SC VORTAC	2100
§ 95.6008 VOR FEDERAL AIRWAY V8 Is Amended to Read in Part		
GRAND JUNCTION, CO VOR/DME *12000—MCA SQUAT, CO FIX, NE BND **9600—MOCA	*SQUAT, CO FIX	**10500
§ 95.6021 VOR FEDERAL AIRWAY V21 Is Amended To Read in Part		
DILLON, MT VOR/DME *9300—MCA WHITEHALL, MT VOR/DME, N BND	*WHITEHALL, MT VOR/DME	10000
§ 95.6030 VOR FEDERAL AIRWAY V30 Is Amended To Read in Part		
EAST TEXAS, PA VOR/DME	SOLBERG, NJ VOR/DME	2700
§ 95.6034 VOR FEDERAL AIRWAY V34 Is Amended To Read in Part		
HANCOCK, NY VOR/DME	RIMBA, NY FIX	6000
RIMBA, NY FIX	WEETS, NY FIX	6400
WEETS, NY FIX	PAWLING, NY VOR/DME.	
	W BND	6000
	E BND	4000
§ 95.6035 VOR FEDERAL AIRWAY V35 Is Amended To Read in Part		
ELMIRA, NY VOR/DME	SCIPO, NY FIX	3700
§ 95.6045 VOR FEDERAL AIRWAY V45 Is Amended To Read in Part		
RALEIGH/DURHAM, NC VORTAC *2800—MCA CHAPL, NC FIX, W BND **1900—MOCA	*CHAPL, NC FIX	**2400
CHAPL, NC FIX	GREENSBORO, NC VORTAC	3100
§ 95.6052 VOR FEDERAL AIRWAY V52 Is Amended To Read in Part		
DES MOINES, IA VORTAC *2400—MOCA *2700—GNSS MEA #DES MOINES R–105 UNUSABLE, USE OTTUMWA R–287	BUSSY, IA FIX	#*4500
BUSSY, IA FIX	OTTUMWA, IA VOR/DME	2700
§ 95.6066 VOR FEDERAL AIRWAY V66 Is Amended To Read in Part		
MISSION BAY, CA VORTAC *6400—MCA RYAHH, CA FIX, E BND	*RYAHH, CA FIX. E BND	7000

From	To	MEA
	W BND	4000
RYAHH, CA FIX	BARET, CA FIX.	
*6100—MOCA	E BND	*8400
	W BND	*7000
BARET, CA FIX	*KUMBA, CA FIX	8400
*6700—MCA KUMBA, CA FIX, W BND		
KUMBA, CA FIX	IMPERIAL, CA VORTAC	4300
§ 95.6095 VOR FEDERAL AIRWAY V95 Is Amended To Read in Part		
BLUE MESA, CO VOR/DME	ROMLY, CO FIX.	
	E BND	17000
	W BND	12000
ROMLY, CO FIX	*HOHUM, CO FIX	**17000
*13100—MCA HOHUM, CO FIX, S BND		
**16200—MOCA		
§ 95.6106 VOR FEDERAL AIRWAY V106 Is Amended To Read in Part		
WEETS, NY FIX	PAWLING, NY VOR/DME.	
	W BND	6000
	E BND	4000
§ 95.6133 VOR FEDERAL AIRWAY V133 Is Amended To Read in Part		
TRAVERSE CITY, MI VORTAC	ESCANABA, MI VOR/DME	5000
§ 95.6139 VOR FEDERAL AIRWAY V139 Is Amended To Read in Part		
NEW BERN, NC VOR/DME	PEARS, NC FIX.	
*2000—GNSS MEA	S BND	*2000
	N BND	*6000
PEARS, NC FIX	SUNNS, NC FIX	*6000
*2100—MOCA		
*2100—GNSS MEA		
SUNNS, NC FIX	NORFOLK, VA VORTAC.	
*1600—MOCA	NE BND	*2500
	SW BND	*4800
*2000—GNSS MEA		
§ 95.6175 VOR FEDERAL AIRWAY V175 Is Amended To Read In Part		
KIRKSVILLE, MO VORTAC	OHGEE, IA FIX	2800
OHGEE, IA FIX	DES MOINES, IA VORTAC	#*7000
*2500—MOCA		
#DES MOINES R–141 UNUSABLE, USE KIRKSVILLE R–323		
§ 95.6193 VOR FEDERAL AIRWAY V193 Is Amended To Read in Part		
WHITE CLOUD, MI VOR/DME	TRAVERSE CITY, MI VORTAC	4000
§ 95.6249 VOR FEDERAL AIRWAY V249 Is Amended To Read in Part		
WEETS, NY FIX	RIMBA, NY FIX	6400
§ 95.6263 VOR FEDERAL AIRWAY V263 Is Amended To Read in Part		
HUGO, CO VOR/DME	*LIMEX, CO FIX	**10000
*10000—MRA		
**8500—MOCA		
**9000—GNSS MEA		
*LIMEX, CO FIX	AKRON, CO VOR/DME	**8500
*10000—MRA		
**7200—MOCA		
§ 95.6267 VOR FEDERAL AIRWAY V267 Is Amended To Read in Part		
BAIRN, FL FIX	ORLANDO, FL VORTAC	2600
§ 95.6285 VOR FEDERAL AIRWAY V285 Is Amended To Read in Part		
MANISTEE, MI VOR/DME	TRAVERSE CITY, MI VORTAC	2800

From	To	MEA
§ 95.6295 VOR FEDERAL AIRWAY V295 Is Amended To Read in Part		
TREASURE, FL VORTAC	BAIRN, FL FIX	*2600
*1600—MOCA		
BAIRN, FL FIX	ORLANDO, FL VORTAC	2600
§ 95.6310 VOR FEDERAL AIRWAY V310 Is Amended To Read in Part		
GREENSBORO, NC VORTAC	*CHAPL, NC FIX	3100
*2800—MCA CHAPL, NC FIX, W BND		
CHAPL, NC FIX	RALEIGH/DURHAM, NC VORTAC	*2400
*1900—MOCA		
§ 95.6320 VOR FEDERAL AIRWAY V320 Is Amended To Read in Part		
TRAVERSE CITY, MI VORTAC	MOUNT PLEASANT, MI VOR/DME	5000
§ 95.6392 VOR FEDERAL AIRWAY V392 Is Amended To Read in Part		
SACRAMENTO, CA VORTAC	ROZZY, CA FIX	*3500
*2200—MOCA		
§ 95.6405 VOR FEDERAL AIRWAY V405 Is Amended To Read In Part		
LANNA, NJ FIX	SOLBERG, NJ VOR/DME	2700
§ 95.6420 VOR FEDERAL AIRWAY V420 Is Amended To Read in Part		
GREEN BAY, WI VORTAC	TRAVERSE CITY, MI VORTAC	3500
§ 95.6458 VOR FEDERAL AIRWAY V458 Is Amended To Read in Part		
JULIAN, CA VORTAC	*KUMBA, CA FIX	7900
*5600—MCA KUMBA, CA FIX, NW BND		
KUMBA, CA FIX	IMPERIAL, CA VORTAC	4300
§ 95.6460 VOR FEDERAL AIRWAY V460 Is Amended To Read in Part		
MISSION BAY, CA VORTAC	*RYAHH, CA FIX.	
*6400—MCA RYAHH, CA FIX, E BND	E BND	7000
	W BND	4000
RYAHH, CA FIX.		
BARET, CA FIX	W BND	4000
*6100—MOCA	E BND	*8400
	W BND	*7000
BARET, CA FIX	CANNO, CA FIX	8400
CANNO, CA FIX	JULIAN, CA VORTAC	8800
§ 95.6483 VOR FEDERAL AIRWAY V483 Is Amended To Read in Part		
KINGSTON, NY VOR/DME	WEETS, NY FIX.	
*3200—MOCA	NW BND	*6000
	SE BND	*4000
WEETS, NY FIX	RIMBA, NY FIX	6400
§ 95.6494 VOR FEDERAL AIRWAY V494 Is Amended To Read in Part		
SACRAMENTO, CA VORTAC	ROZZY, CA FIX	*3500
*2200—MOCA		
§ 95.6514 VOR FEDERAL AIRWAY V514 Is Amended To Read in Part		
MISSION BAY, CA VORTAC	*RYAHH, CA FIX.	
*6400—MCA RYAHH, CA FIX, E BND	E BND	7000
	W BND	4000
RYAHH, CA FIX	BARET, CA FIX.	
*6100—MOCA	E BND	*8400
	W BND	*7000
BARET, CA FIX	CANNO, CA FIX	8400
CANNO, CA FIX	JULIAN, CA VORTAC	8800
§ 95.6611 VOR FEDERAL AIRWAY V611 Is Amended To Read in Part		
JEFEL, CO FIX	*LIMEX, CO FIX	#8500

From	To	MEA
*10000—MRA #GNSS MEA		

From	To	MEA	MAA
§ 95.7528 JET ROUTE J528 Is Amended To Delete			
WHATCOM, WA VORTAC	U.S. CANADIAN BORDER	18000	45000

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points V1			
CHARLESTON, SC VORTAC	GRAND STRAND, SC VORTAC	46	CHARLESTON
Is Amended To Add Changeover Point V208			
SANTA CATALINA, CA VORTAC	OCEANSIDE, CA VORTAC	31	SANTA CATALINA
Is Amended To Add Changeover Point V27			
SANTA CATALINA, CA VORTAC	OCEANSIDE, CA VORTAC	31	SANTA CATALINA
Is Amended To Add Changeover Point V34			
ROCHESTER, NY VOR/DME	HANCOCK, NY VOR/DME	60	ROCHESTER
Is Amended To Add Changeover Point V458			
SANTA CATALINA, CA VORTAC	OCEANSIDE, CA VORTAC	31	SANTA CATALINA

[FR Doc. 2012–26334 Filed 10–25–12; 8:45 am]
BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2011–7]

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: Having duly considered and accepted the Recommendation of the Register of Copyrights that the prohibition against circumvention of technological measures that effectively control access to copyrighted works shall not apply to persons who engage in noninfringing uses of certain classes of copyrighted works, the Librarian of Congress is exercising his authority to publish a new rule designating classes of copyrighted works that shall be subject to statutory exemption.

DATES: *Effective Date:* October 28, 2012.

FOR FURTHER INFORMATION CONTACT: Jacqueline C. Charlesworth, Senior Counsel to the Register of Copyrights, Office of the Register of Copyrights, by email at *jcharlesworth@loc.gov*; Christopher S. Reed, Senior Advisor for Policy & Special Projects, Office of the Register of Copyrights, by email at *creed@loc.gov*; or call the U.S. Copyright Office by phone at 202–707–8350.

SUPPLEMENTARY INFORMATION: The Librarian of Congress, upon the recommendation of the Register of Copyrights, has determined that the prohibition against circumvention of technological measures that effectively control access to copyrighted works shall not apply to persons who engage in noninfringing uses of certain classes of works. This rulemaking is the culmination of a proceeding initiated by the Register on September 29, 2011. A more comprehensive statement of the background and legal requirements of the rulemaking, a discussion of the record, and the Register's analysis are set forth in the Register's Recommendation, which was transmitted to the Librarian on October 12, 2012. A copy of the Recommendation may be found at *www.copyright.gov/1201/*. This notice summarizes the Register's Recommendation, announces the Librarian's determination, and publishes the regulatory text codifying the exempted classes of works.

I. Background

A. Statutory Requirements

The Digital Millennium Copyright Act (''DMCA'') was enacted to implement certain provisions of the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty. It established a wide range of rules for the digital marketplace that govern not only copyright owners, but also consumers, manufacturers, distributors, libraries, educators, and online service providers.

Chapter 12 of Title 17 of the United States Code prohibits the circumvention of certain technological measures employed by or on behalf of copyright owners to protect their works (''technological measures'' or ''access controls''). Specifically, Section 1201(a)(1)(A) provides, in part, that ''[n]o person shall circumvent a technological measure that effectively controls access to a work protected'' by the Copyright Act. In order to ensure that the public will have the continued ability to engage in noninfringing uses of copyrighted works, however, subparagraph (B) limits this prohibition. It provides that the prohibition shall not apply to persons who are users of a copyrighted work in a particular class of works if such persons are, or in the

succeeding three-year period are likely to be, adversely affected by virtue of the prohibition in their ability to make noninfringing uses of such works, as determined in this rulemaking proceeding.

The proceeding is conducted by the Register of Copyrights, who is to provide notice of the proceeding, seek comments from the public, consult with the Assistant Secretary for Communications and Information of the Department of Commerce, and recommend final regulations to the Librarian of Congress. According to Section 1201(a)(1)(D), the resulting regulations, which are issued by the Librarian of Congress, announce ''any class of copyrighted works for which the Librarian has determined, pursuant to the rulemaking * * * that noninfringing uses by persons who are users of a copyrighted work are, or are likely to be, adversely affected, and the prohibition contained in subparagraph (A) shall not apply to such users with respect to such class of works for the ensuing 3-year period.''

The primary responsibility of the Register and the Librarian in this rulemaking proceeding is to assess whether the implementation of access control measures is diminishing the ability of individuals to use copyrighted works in ways that are not infringing and to designate any classes of works with respect to which users have been adversely affected in their ability to make such noninfringing uses. Congress intended that the Register solicit input that would enable consideration of a broad range of current or likely future adverse impacts. Section 1201(a)(1)(C) directs that the rulemaking proceeding examine: (1) The availability for use of copyrighted works; (2) the availability for use of works for nonprofit archival, preservation, and educational purposes; (3) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research; (4) the effect of circumvention of technological measures on the market for or value of copyrighted works; and (5) such other factors as the Librarian considers appropriate. These statutory factors require the Register and Librarian to balance carefully the availability of copyrighted works for use, the effect of the prohibition on particular uses, and the effect of circumvention on copyrighted works.

B. The Rulemaking Process

In examining the factors set forth in Section 1201(a)(1)(C), the focus is on whether the implementation of technological measures has an adverse impact on the ability of users to make lawful uses of copyrighted works. The statutory prohibition on circumvention is presumed to apply to any and all kinds of works unless, and until, the criteria have been met for a particular class.

In each rulemaking proceeding, the Register and Librarian review the proposed classes *de novo.* The fact that a class previously has been designated creates no presumption that redesignation is appropriate. While in some cases earlier *legal* analysis by the Register may be relevant to analyzing a proposed exemption, the proponent of a class must still make a persuasive *factual* showing with respect to the three-year period currently under consideration. When a class has been previously designated, however, evidence relating to the costs, benefits, and marketplace effects ensuing from the earlier designation may be relevant in assessing whether a similar class should be designated for the subsequent period.

Proponents of an exemption for a class of works bear the burden of demonstrating that the exemption is warranted. In order to establish a *prima facie* case for designation of a particular class of works, the proponent must show that: (1) Uses affected by the prohibition on circumvention are or are likely to be noninfringing; and (2) as a result of a technological measure controlling access to a copyrighted work, the prohibition is causing, or in the next three years is likely to cause, a substantial adverse impact on those uses.

There are several types of noninfringing uses that could be affected by the prohibition of Section 1201(a)(1), including fair use and the use of public domain works, among others. A proponent must show that the proposed use is or is likely noninfringing. It is not sufficient that the use could be noninfringing, as the Register does not apply a ''rule of doubt'' when it is unclear whether a proposed use is likely to be fair or otherwise noninfringing.

A proponent may not rely on speculation to support a proposed class, but instead must show by a preponderance of evidence that the alleged harm to noninfringing uses is more likely than not to occur during the next three years. The harm must be distinct and measurable, and more than *de minimis.* The Register and Librarian will, when appropriate, consider whether alternatives exist to accomplish the proposed noninfringing uses. The mere fact that a particular medium or technology may be more convenient for noninfringing uses than other formats is generally insufficient to support an exemption. If sufficient alternatives exist, there is no substantial adverse impact or adequate basis to designate the class.

C. Defining a Class

The starting point in defining a ''particular class'' of works to be designated as a result of the rulemaking is one of the categories of works set forth in Section 102 of the Copyright Act, such as literary works, musical works, or sound recordings. Those categories are only a starting point, however; a ''class'' will generally constitute some subset of a Section 102 category. The determination of the appropriate scope of a class of works recommended for exemption will also depend on the evidentiary record and take into account the adverse impact on noninfringing uses, as well as the market for and value of the copyrighted works.

While beginning with a category of works identified in Section 102, or a subcategory thereof, the description of the ''particular class'' ordinarily will be refined with reference to other factors so that the scope of the class is proportionate to the scope of harm to noninfringing uses. For example, a class might be refined in part by reference to the medium on which the works are distributed, or to the access control measures applied to the works. The description of a class of works may also be refined, in appropriate cases, by reference to the type of user who may take advantage of the exemption or the type of use that may be made pursuant to the designation. The class must be properly tailored to address not only the demonstrated harm, but also to limit the adverse consequences that may result from the exemption to the prohibition on circumvention. In every case, the contours of a class will depend on the factual record established in the rulemaking proceeding.

II. History of the Proceeding

A. Solicitation of Public Comments and Hearings

This is the fifth triennial rulemaking proceeding pursuant to Section 1201(a)(1)(C). The Register initiated the rulemaking on September 29, 2011 (76 FR 60398) with publication of a Notice of Inquiry (''NOI''). The NOI requested written comments from all interested parties, including representatives of copyright owners, educational institutions, libraries and archives, scholars, researchers, and members of

the public, concerning whether noninfringing uses of certain classes of works are, or are likely to be, adversely affected by the prohibition against circumvention of measures that control access to copyrighted works.

During the initial comment period that ended on December 1, 2011, the Copyright Office received 22 comments, all of which were posted on the Office's Web site. Based on these comments, the Register identified proposed exemptions for the upcoming period. Because some of the initial comments contained similar or overlapping proposals, the Copyright Office organized the proposals into ten proposed classes of works, and set forth and summarized each class in a Notice of Proposed Rulemaking (''NPRM'') published on December 20, 2011 (76 FR 78866).

The NPRM did not present the initial classes in the form of a proposed rule, but merely as ''a starting point for further consideration.'' The NPRM asked interested parties to submit additional comments and reply comments providing support, opposition, clarification, or correction regarding the proposed classes of works, and to provide factual and/or legal arguments in support of their positions. The Copyright Office received a total of 674 comments before the comment period closed on February 10, 2012. The Office also received 18 reply comments before the reply comment period closed on March 2, 2012.

On March 15, 2012, the Register published a Notice indicating that public hearings would be conducted at the University of California, UCLA School of Law, in California, and at the Library of Congress in Washington, DC, in May and June 2012 to consider the proposed exemptions. Requests to testify were due April 2, 2012. Public hearings were held on five separate days: at the Library of Congress on May 11, 2012; at University of California, Los Angeles, School of Law on May 17, 2012; and at the Library of Congress on May 31, June 4, and June 5, 2012. Witnesses representing proponents and opponents of proposed classes of works offered testimony and answered questions from Copyright Office staff.

Following the hearings, the Copyright Office sent follow-up questions pertaining to certain issues to witnesses who had testified. The purpose of these written inquiries was to clarify for the record certain statements made during the hearings and to elicit further responses to questions raised at the hearings.

B. Consultation With the Assistant Secretary for Communications and Information

As contemplated by Congress, the Register also sought input from the Assistant Secretary for Communications and Information of the Department of Commerce, who oversees the National Telecommunications and Information Administration (''NTIA''). NTIA staff were briefed on the rulemaking process and informed of developments through a series of meetings and telephone conferences. They also were in attendance at many of the hearings.

NTIA formally communicated its views on the proposed classes in a letter delivered to the Register on September 21, 2012.

III. The Designated Classes

Upon the recommendation of the Register of Copyrights, the Librarian has determined that the following classes of works shall be exempt from the prohibition against circumvention of technological measures set forth in Section 1201(a)(1)(A):

A. Literary Works Distributed Electronically—Assistive Technologies

Literary works, distributed electronically, that are protected by technological measures which either prevent the enabling of read-aloud functionality or interfere with screen readers or other applications or assistive technologies, (i) when a copy of such a work is lawfully obtained by a blind or other person with a disability, as such a person is defined in 17 U.S.C. 121; provided, however, the rights owner is remunerated, as appropriate, for the price of the mainstream copy of the work as made available to the general public through customary channels; or (ii) when such work is a nondramatic literary work, lawfully obtained and used by an authorized entity pursuant to 17 U.S.C. 121.

This exemption is a modification of the proponents' proposal. It permits the circumvention of literary works that are distributed electronically to allow blind and other persons with disabilities to obtain books through the open market and use screen readers and other assistive technologies to read them, regardless of whether an accessible copy may be available for purchase, but provided the author, publisher, or other rights owner receives remuneration, as appropriate. It also permits authorized entities operating under Section 121 to use such works and ensures that such use conforms to the provisions and safeguards of that section.

Proponents American Council of the Blind and American Foundation for the Blind, supported by The Samuelson-Glushko Technology Law & Policy Clinic at the University of Colorado Law School, sought an exemption to access literary works that are distributed electronically—*i.e.,* ebooks—that are legally obtained by individuals who are blind or print disabled but cannot be used with screen readers or other assistive technologies. In 2006 and 2010, the Librarian designated a class consisting of ''[l]iterary works distributed in ebook format when all existing ebook editions of the work (including digital text editions made available by authorized entities) contain access controls that prevent the enabling either of the book's read-aloud function or of screen readers that render the text into a specialized format.'' *See* 37 CFR 201.40(b)(6). In this proceeding, proponents sought to eliminate the requirement that all existing ebook editions contain access controls, but at the same time proposed to limit the exemption to individuals with print disabilities as defined by Section 121 of the Copyright Act and to authorized entities under Section 121 distributing works exclusively to such persons.

Proponents asserted that the exception is necessary because technological measures to control access to copyrighted works have been developed and deployed in ways that prevent access to ebooks by people who are blind or visually impaired. Proponents explained that, despite the rapid growth of the ebook market, most ebook titles remain inaccessible due to fragmentation within the industry and differing technical standards and accessibility capabilities across platforms. Although precise figures remain elusive, press accounts cited by the proponents suggest that only a fraction of the publicly available ebooks are accessible; proponents estimated that there are approximately 1.8 million inaccessible ebook titles. Proponents cited an example, *The Mill River Recluse* by Darcie Chan, ebook editions of which are available in each of the three major ebook stores. Only the iBookstore edition is accessible, however. An individual with a print disability would thus be required to have an iPhone, iPad, or other Apple device in order to access the book.

Joint Creators and Copyright Owners, consisting of the Association of American Publishers, the American Society of Media Photographers, the Business Software Alliance, the Entertainment Software Association, the Motion Picture Association of America, the Picture Archive Council of America, and the Recording Industry Association of America (''Joint Creators''), representing various content owner groups, offered no objection in principle

to an exemption such as that promulgated in 2010. They observed that the market is evolving rapidly and that the market share of the major electronic book platforms had increased substantially since the last rulemaking. However, they opposed elimination of the requirement in the existing exemption that all ebook formats contain access controls before the exemption could be invoked.

When the Register was first called upon to consider an exemption for ebooks in 2003, the marketplace was very different. At that time, ebooks were distributed primarily for use on personal computers (''PCs''), readable with freely available software, and the public's reception of ebooks was tentative. Today, ebooks are marketed mainly for use on mobile devices, ranging from dedicated ebook readers using proprietary software (*e.g.,* Amazon's Kindle) to multipurpose devices running free software applications (*e.g.,* an Apple iPad running Amazon's Kindle app). Nonetheless, there are often substantial costs associated with owning dedicated reading devices, and there are inefficiencies associated with having to own more than one such device. The restrictions recommended by the Register in prior rulemakings are therefore not reflective of the current market conditions.

The Register determined that the statutory factors of Section 1201(a)(1)(C) strongly favor an exempted class to address the adverse effects that were established in the record. The designated class is not merely a matter of convenience, but is instead intended to enable individuals who are blind or visually impaired to have meaningful access to the same content that individuals without such impairments are able to perceive. As proponents explained, their desire is simply to be able to access lawfully acquired content. In short, the exemption is designed to permit effective access to a rapidly growing array of ebook content by a population that would otherwise go without.

NTIA also indicated its support for the adoption of an exemption, noting that ''[r]equiring visually impaired Americans to invest hundreds of dollars in an additional device (or even multiple additional devices), particularly when an already-owned device is technically capable of rendering literary works accessible, is not a reasonable alternative to circumvention * * *.''

Explaining that literary works are distributed electronically in a wide range of formats, not all of which are necessarily widely understood to constitute ''ebooks,'' NTIA noted that it preferred the more general term ''literary works, distributed electronically.''

At the hearing, proponents confirmed that it was not their intent to create a situation where publishers are not getting paid for their works, and that the author or publisher should be compensated for the price of the mainstream book available to the general public. Thus, the first prong of the designated class permits circumvention by blind or other persons with disabilities, effectively ensuring that they have access through the open market, while also ensuring that rights owners receive appropriate remuneration.

The second prong of the proposal (the part that would extend the exemption to authorized entities) is a new consideration; it has not been the subject of a prior Section 1201 rulemaking and proponents did not provide extensive analysis. Nonetheless, the Register found that the proposal was supported by relevant evidence and thus recommended that authorized entities should enjoy an exemption to the extent required to carry out their work under Section 121. The Register recommended some modifications to the proposal as written to ensure that it is consistent with, but not an enlargement of, Section 121. In relevant part, Section 121 permits qualified ''authorized entities'' to reproduce and distribute nondramatic literary works provided the resulting copies are in ''specialized formats exclusively for use by blind or other persons with disabilities.''

In her recommendation, the Register noted that several provisions in Section 121 appear ill-suited to the digital world and could benefit from comprehensive review by Congress. Section 121 was enacted in 1996 following careful consideration of the public interest, including the interests of persons with disabilities and the interest of authors and other copyright owners. The issues relating to digital uses are complex and deserving of consideration beyond what can be accomplished in this proceeding.

B. Wireless Telephone Handsets—Software Interoperability

Computer programs that enable wireless telephone handsets to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the telephone handset.

This exemption is a modification of the proponents' proposal. It permits the circumvention of computer programs on mobile phones to enable interoperability of non-vendor-approved software applications (often referred to as ''jailbreaking''), but does not apply to tablets—as had been requested by proponents—because the record did not support it.

Proponent Electronic Frontier Foundation (''EFF''), joined by New America Foundation's Open Technology Initiative, New Media Rights, Mozilla Corporation (''Mozilla''), and the Free Software Foundation (''FSF''), as well as several hundred individual supporters, sought an exemption to permit the circumvention of access controls on wireless devices so that the devices can be used with non-vendor-approved software that is lawfully acquired. In 2010, the Register recommended, and the Librarian designated, a class that permitted circumvention of technological measures on certain telephone handsets known as ''smartphones.'' In recommending that class, the Register found that many such phones are protected by access controls, that proponents' intended use—to render certain lawfully acquired applications interoperable with the handset's software—was fair, and that the access controls adversely affected that use. The Register also found that the statutory factors prescribed by 17 U.S.C. 1201(a)(1)(C) weighed in favor of granting the exemption.

In this proceeding, proponents urged an expanded version of the class designated in 2010, citing dramatic growth in the mobile phone market, along with continued widespread use of technological measures to prevent users from installing unauthorized applications on such phones. They proposed that the exemption be extended to include ''tablets,'' such as Apple's iPad, which, in EFF's words, have ''enjoyed similar radical popularity over the past two years.''

EFF asserted that courts have long found copying and modification to enable device interoperability noninfringing under the doctrine of fair use. It further noted that the Register concluded in the 2010 rulemaking that jailbreaking was a fair use, and maintained that nothing in the factual or legal record since the last proceeding suggested that a change in this position was warranted.

EFF also asserted that the last three years have seen dramatic growth in the adoption of smartphones and tablets as consumers increasingly shift from traditional personal computers to mobile devices. EFF argued that the technological restrictions on phones and tablets have an adverse effect on

consumer choice and competition. Specifically, it noted that Apple, whose devices ''refuse to run any unapproved third-party software,'' has strict rules about the type of programs approved for sale through its ''App Store,'' the only authorized source of iPhone and iPad applications. EFF further asserted that although Android-based devices are generally less restricted than Apple devices, most still employ technological measures to block functionality and prevent the installation of certain types of software. EFF urged the Register to consider that such technological measures are not intended to protect the copyrighted firmware, but instead to promote anticompetitive business practices.

Joint Creators asserted that the proposed exemption is unnecessary and beyond the scope of the rulemaking because Section 1201(f) of the Copyright Act already defines ''the contours of acceptable circumvention related to interoperability.'' Specifically, Joint Creators argued that the proponents have not established that Section 1201(f) does not already permit the conduct in which proponents seek to engage and, ''if it were established that Congress chose not to include the conduct at issue within [Section] 1201(f),'' then proponents have failed to establish that the Librarian has the authority to upset that decision through this proceeding. The Register concluded that it was unclear, at best, whether Section 1201(f) applies in this circumstance, so she proceeded to analyze the merits of the proposed exemption.

Joint Creators did not directly challenge EFF's fair use analysis but instead took issue with the Register's previous fair use finding. In reviewing the fair use question, the Register noted that the factual record with respect to fair use was substantially the same as it was in 2010 and that there had been no significant developments in pertinent case law that would cause the Register to reevaluate the analytical framework applied in 2010. The purpose and character of the use is noncommercial and personal so that individual owners of smartphones may use them for the purpose for which they were intended. The nature of the copyrighted work—firmware—remains the same as it was in 2010, and it remains true that one engaged in jailbreaking need only modify the functional aspects of the firmware, which may or may not be subject to copyright protection. Those engaged in jailbreaking use only that which is necessary to engage in the activity, which is often *de minimis,* rendering the third factor potentially unfavorable, but nevertheless of minimal consequence. With respect to market harm, notwithstanding the earlier exemption, the proliferation of smartphones has increased since the last rulemaking, suggesting that the fourth factor favored a fair use finding even more than it did in 2010.

The Register found that proponents had established that the prohibition is adversely affecting, and is likely to continue to have an adverse impact on, certain uses of mobile devices in which the firmware, a copyrightable work, is protected by technological measures. The evidence in the record indicated that smartphones have been widely adopted and that consumer acceptance of such devices will continue to increase in the future. Nonetheless, the vast majority of mobile phones sold today contain technological measures that restrict users' ability to install unauthorized applications.

The Register determined that the statutory factors weighed in favor of a renewed exemption for smartphones, as nothing in the record suggested that the market for mobile phones had been negatively impacted by the designation of such a class and, in fact, such a class might make smartphones more attractive to consumers. While Joint Creators raised concerns about pirated applications that are able to run on jailbroken devices, the record did not demonstrate any significant relationship between jailbreaking and piracy.

On the other hand, the Register concluded that the record did not support an extension of the exemption to ''tablet'' devices. The Register found significant merit to the opposition's concerns that this aspect of the proposed class was broad and ill-defined, as a wide range of devices might be considered ''tablets,'' notwithstanding the significant distinctions among them in terms of the way they operate, their intended purposes, and the nature of the applications they can accommodate. For example, an ebook reading device might be considered a ''tablet,'' as might a handheld video game device or a laptop computer.

NTIA supported the designation of a class for both smartphones and tablets. Noting the broad support for such an exemption and the numerous noninfringing uses enabled by jailbreaking, NTIA asserted that ''the mobile application market has thrived, and continues to do so, despite—and possibly in part because of—the current exemption.'' NTIA was persuaded that the proposed class should apply to tablets as well as mobile phones, believing that category to have been sufficiently defined by EFF. As noted, however, the Register determined that the record lacked a sufficient basis to develop an appropriate definition for the ''tablet'' category of devices, a necessary predicate to extending the exemption beyond smartphones. In future rulemakings, as mobile computing technology evolves, such a definition might be more attainable, but on this record, the Register was unable to recommend the proposed expansion to tablets.

C. Wireless Telephone Handsets—Interoperability With Alternative Networks

Computer programs, in the form of firmware or software, that enable a wireless telephone handset originally acquired from the operator of a wireless telecommunications network or retailer no later than ninety days after the effective date of this exemption to connect to a different wireless telecommunications network, if the operator of the wireless communications network to which the handset is locked has failed to unlock it within a reasonable period of time following a request by the owner of the wireless telephone handset, and when circumvention is initiated by the owner, an individual consumer, who is also the owner of the copy of the computer program in such wireless telephone handset, solely in order to connect to a different wireless telecommunications network, and such access to the network is authorized by the operator of the network.

This exemption is a modification of the proponents' proposal. It permits the circumvention of computer programs on mobile phones to enable such mobile phones to connect to alternative networks (often referred to as ''unlocking''), but with limited applicability. In order to align the exemption to current market realities, it applies only to mobile phones acquired prior to the effective date of the exemption or within 90 days thereafter.

Proponents Consumers Union, Youghiogheny Communications, LLC, MetroPCS Communications, Inc., and the Competitive Carriers Association, supported by other commenting parties, submitted similar proposals seeking an exemption to permit circumvention to enable wireless devices to interoperate with networks other than the network on which the device was originally used. In 2006, and again in 2010, the Register recommended, and the Librarian designated, a class of works that permitted the circumvention of technological protection measures applied to firmware in wireless handsets for the purpose of switching to an alternative wireless network.

Proponents advanced several theories as to why ''unlocking'' is a noninfringing use, including that it does

not implicate any copyright interests or, if it does, the conduct is permitted under Section 117 of the Copyright Act. In particular, proponents asserted that the owners of mobile phones are also the owners of the copies of the computer programs on those phones and that, as owners, they are entitled to exercise their rights under Section 117, which gives the owner of a copy of a computer program the privilege to make or authorize the making of another copy or adaptation of that computer program under certain circumstances, such as to permit the program to be used on a particular machine.

Proponents noted that ''huge numbers'' of people have already unlocked their phones under the 2006 and 2010 exemptions and claimed that ending the exemption will lead to higher device prices for consumers, increased electronic waste, higher costs associated with switching service providers, and widespread mobile customer ''lock-in.'' Although proponents acknowledged that unlocked mobile devices are widely available for purchase, they contended that an exemption is still warranted because some devices sold by carriers are permanently locked and because unlocking policies contain restrictions and may not apply to all of a carrier's devices. Proponents characterized software locks as impediments to a competitive marketplace. They claimed that absent the exemption, consumers would be forced to continue to do business with the carrier that sold the device to the consumer in the first instance, or to discard the device.

CTIA—The Wireless Association (''CTIA''), a trade association comprised of various commercial wireless service providers, objected to the proposals as drafted. Overall, CTIA maintained that an exemption for unlocking is not necessary because ''the largest nationwide carriers * * * have liberal, publicly available unlocking policies,'' and because unlocked phones are ''freely available from third party providers—many at low prices.'' Nonetheless, CTIA indicated that its members did not object to a ''narrowly tailored and carefully limited exception'' to permit individual customers of wireless carriers to unlock phones for the purpose of switching networks.

CTIA explained that the practice of locking cell phones is an essential part of the wireless industry's predominant business model, which involves subsidizing the cost of wireless handsets in exchange for a commitment from the customer that the phone will be used on that carrier's service so that the subsidy can eventually be recouped by the carrier. CTIA alleged that the industry has been plagued by ''large scale phone trafficking operations'' that buy large quantities of pre-paid phones, unlock them, and resell them in foreign markets where carriers do not subsidize handsets. On the question of noninfringing use, CTIA asserted that the Section 117 privileges do not apply because owners of wireless devices do not necessarily own the software on those devices.

The Register confronted similar arguments about Section 117 in the 2010 proceeding. There, the parties relied primarily upon *Krause* v. *Titleserv, Inc.,* 402 F.3d 119 (2d Cir. 2005), as the leading authority regarding ownership of computer programs. After reviewing mobile phone agreements introduced in the 2010 proceeding, based on the state of the law at that time, the Register concluded that ''[t]he record * * * leads to the conclusion that a substantial portion of mobile phone owners also own the copies of the software on their phones.''

Since the Register rendered her 2010 Recommendation, the case law has evolved. In 2010, the Ninth Circuit issued its decision in *Vernor* v. *Autodesk, Inc.,* 621 F.3d 1102 (9th Cir. 2010), holding that ''a software user is a licensee rather than an owner of a copy where the copyright owner (1) Specifies that the user is granted a license; (2) significantly restricts the user's ability to transfer the software; and (3) imposes notable use restrictions.''

Proponents made only a cursory attempt to respond to *Vernor* and failed to offer relevant agreements to support their view of software ownership. CTIA, by contrast, cited agreements from several major carriers in an effort to demonstrate that the software on the mobile handsets is licensed, rather than sold, to a phone's owner. Nonetheless, the Register was forced to conclude that the state of the law—and its applicability to mobile phone software—remains indeterminate. Although *Vernor* and *Krause* are useful guideposts in considering the status of software ownership, they are controlling precedent in only two circuits and are inconsistent in their approach; whether and how those standards would be applied in other circuits is unknown. Moreover, while CTIA contended that the agreements it offered unequivocally supported a finding that users do not own the software, in reviewing those agreements, the Register believed the question to be a closer call. The Register therefore determined that some subset of wireless customers—*i.e.,* anyone considered to own the software on their phones under applicable precedent—would be entitled to exercise the Section 117 privilege.

The Register further concluded that the record before her supported a finding that, with respect to new wireless handsets, there are ample alternatives to circumvention. That is, the marketplace has evolved such that there is now a wide array of unlocked phone options available to consumers. While it is true that not *every* wireless device is available unlocked, and wireless carriers' unlocking polices are not free from all restrictions, the record clearly demonstrates that there is a wide range of alternatives from which consumers may choose in order to obtain an unlocked wireless phone. Thus, the Register determined that with respect to newly purchased phones, proponents had not satisfied their burden of showing adverse effects related to a technological protection measure.

However, with respect to ''legacy'' phones—*i.e.,* used (or perhaps unused) phones previously purchased or otherwise acquired by a consumer—the record pointed to a different conclusion. The record demonstrated that there is significant consumer interest in and demand for using legacy phones on carriers other than the one that originally sold the phone to the consumer. It also supported a finding that owners of legacy phones—especially phones that have not been used on any wireless network for some period of time—may have difficulty obtaining unlocking codes from wireless carriers, in part because an older or expired contract might not require the carrier to cooperate.

Despite the increasing availability of unlocked phones in the marketplace and the trend toward wireless carriers' unlocking phones in certain circumstances, NTIA favored a broader exemption. It asserted that the unlocking policies of most wireless carriers are not reasonable alternatives to circumvention because many such policies apply only to current customers or subscribers, because some carriers will refuse to unlock devices, and because unlocking policies are often contingent upon the carrier's ability to obtain the necessary code. Further, ''NTIA does not support the notion that it is an appropriate alternative for a current device owner to be required to purchase another device to switch carriers.''

The Register concluded after a review of the statutory factors that an exemption to the prohibition on circumvention of mobile phone

computer programs to permit users to unlock ''legacy'' phones is both warranted and unlikely to harm the market for such programs. At the same time, in light of carriers' current unlocking policies and the ready availability of new unlocked phones in the marketplace, the record did not support an exemption for newly purchased phones. Looking to precedents in copyright law, the Register recommended that the class designated by the Librarian include a 90-day transitional period to allow unlocking by those who may acquire phones shortly after the new exemption goes into effect.

D. Motion Picture Excerpts—Commentary, Criticism, and Educational Uses

• Motion pictures, as defined in 17 U.S.C. 101, on DVDs that are lawfully made and acquired and that are protected by the Content Scrambling System, where the person engaging in circumvention believes and has reasonable grounds for believing that circumvention is necessary because reasonably available alternatives, such as noncircumventing methods or using screen capture software as provided for in alternative exemptions, are not able to produce the level of high-quality content required to achieve the desired criticism or comment on such motion pictures, and where circumvention is undertaken solely in order to make use of short portions of the motion pictures for the purpose of criticism or comment in the following instances: (i) In noncommercial videos; (ii) in documentary films; (iii) in nonfiction multimedia ebooks offering film analysis; and (iv) for educational purposes in film studies or other courses requiring close analysis of film and media excerpts, by college and university faculty, college and university students, and kindergarten through twelfth grade educators. For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

• Motion pictures, as defined in 17 U.S.C. 101, that are lawfully made and acquired via online distribution services and that are protected by various technological protection measures, where the person engaging in circumvention believes and has reasonable grounds for believing that circumvention is necessary because reasonably available alternatives, such as noncircumventing methods or using screen capture software as provided for in alternative exemptions, are not able to produce the level of high-quality content required to achieve the desired criticism or comment on such motion pictures, and where circumvention is undertaken solely in order to make use of short portions of the motion pictures for the purpose of criticism or comment in the following instances: (i) In noncommercial videos; (ii) in documentary films; (iii) in nonfiction multimedia ebooks offering film analysis; and (iv) for educational purposes in film studies or other courses requiring close analysis of film and media excerpts, by college and university faculty, college and university students, and kindergarten through twelfth grade educators. For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

• Motion pictures, as defined in 17 U.S.C. 101, on DVDs that are lawfully made and acquired and that are protected by the Content Scrambling System, where the circumvention, if any, is undertaken using screen capture technology that is reasonably represented and offered to the public as enabling the reproduction of motion picture content after such content has been lawfully decrypted, when such representations have been reasonably relied upon by the user of such technology, when the person engaging in the circumvention believes and has reasonable grounds for believing that the circumvention is necessary to achieve the desired criticism or comment, and where the circumvention is undertaken solely in order to make use of short portions of the motion pictures for the purpose of criticism or comment in the following instances: (i) in noncommercial videos; (ii) in documentary films; (iii) in nonfiction multimedia ebooks offering film analysis; and (iv) for educational purposes by college and university faculty, college and university students, and kindergarten through twelfth grade educators. For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

• Motion pictures, as defined in 17 U.S.C. 101, that are lawfully made and acquired via online distribution services and that are protected by various technological protection measures, where the circumvention, if any, is undertaken using screen capture technology that is reasonably represented and offered to the public as enabling the reproduction of motion picture content after such content has been lawfully decrypted, when such representations have been reasonably relied upon by the user of such technology, when the person engaging in the circumvention believes and has reasonable grounds for believing that the circumvention is necessary to achieve the desired criticism or comment, and where the circumvention is undertaken solely in order to make use of short portions of the motion pictures for the purpose of criticism or comment in the following instances: (i) In noncommercial videos; (ii) in documentary films; (iii) in nonfiction multimedia ebooks offering film analysis; and (iv) for educational purposes by college and university faculty, college and university students, and kindergarten through twelfth grade educators. For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

These related exemptions are modifications of the proponents' proposals. They permit the circumvention of motion pictures contained on DVDs and delivered through online services to permit the use of short portions for purposes of criticism and comment in noncommercial videos, documentary films, nonfiction multimedia ebooks offering film analysis, and for certain educational uses by college and university faculty and students and kindergarten through twelfth grade educators. They also permit the use of screen capture technology to the extent an exemption is necessary under the law. However, the exemptions do not apply to the use of motion picture excerpts in fictional films, as the Register was unable to conclude on the record presented that such use is noninfringing.

Proponents submitted eight proposals requesting the designation of classes to allow the circumvention of lawfully made and acquired motion pictures and audiovisual works protected by various access controls where the user seeks to engage in a noninfringing use. The proposals were comprised of three subgroups:

First, proponents of exemptions for noncommercial videos sought to use clips from motion pictures to create new noncommercial videos, such as remix or mash-up videos, for criticism, comment, and other noninfringing uses. Proponents for these uses included EFF and University of Michigan Library (''UML''), supported by the Organization for Transformative Works. UML's proposal requested an exemption very similar to the Register's 2010 recommended exemption for motion pictures contained on DVDs protected by Content Scrambling System (''CSS''), which encompassed educational uses and documentary filmmaking, in addition to noncommercial videos. However, UML indicated that the exemption should apply not only to motion pictures but to audiovisual works generally. EFF sought to broaden the 2010 exemption by expanding it to include audiovisual works and to include circumvention of motion pictures acquired via online distribution services. It also sought to enlarge the exemption to include not just criticism or comment but *any* noninfringing use, and to cover ''primarily noncommercial videos,'' a category that would include videos generating some amount of revenue.

Second, proponents of exemptions for commercial uses by documentary filmmakers, fictional filmmakers, and multimedia ebook authors sought an

exemption to use clips from motion pictures to engage in criticism, comment, or other fair uses. Proponents for these uses included International Documentary Association, Kartemquin Educational Films, Inc., National Alliance for Media Arts and Culture, and Independent Filmmaker Project (collectively ''Joint Filmmakers''); UML; and Mark Berger, Bobette Buster, Barnet Kellman, and Gene Rosow (collectively ''Joint Ebook Authors''). Each of these proposals requested an exemption to circumvent motion pictures or other audiovisual works for use by creators of noninfringing commercial works, namely, documentary films, fictional films, and multimedia ebooks offering film analysis. As noted, UML's proposal largely tracked the exemption recommended by the Register in 2010. Joint Filmmakers' proposal sought to expand the 2010 exemption by adding fictional filmmakers, as well as by extending the exemption to cover any noninfringing use. Joint Filmmakers also sought to include circumvention of Blu-ray discs protected by the Advanced Access Content System (''AACS'') and motion pictures digitally transmitted through protected online services. Joint Ebook Authors' proposal sought the use of short portions of motion pictures for the purpose of multimedia ebook authorship. Like Joint Filmmakers, Joint Ebook Authors indicated that the proposed exemption should not depend on uses that involve criticism or comment but should instead merely require that the use be noninfringing. Joint Ebook Authors also proposed that the exemption include digitally transmitted video in addition to CSS-protected DVDs.

Finally, proponents of exemptions for educational uses sought to use clips from motion pictures for criticism, comment, or other educational purposes by college and university professors and faculty, college and university students, and kindergarten through twelfth grade educators. Proponents for these uses included UML; Library Copyright Alliance (''LCA''); Peter Decherney, Katherine Sender, Michael X. Delli Carpini, International Communication Association, Society for Cinema and Media Studies, and American Association of University Professors (''Joint Educators''); and Media Education Lab at the Harrington School of Communication and Media at the University of Rhode Island (''MEL''). The proposals by UML and LCA requested an exemption similar to the 2010 exemption recommended by the Register for circumvention of CSS-protected DVDs, except that UML sought to broaden it to apply to audiovisual works, as well as to students across all disciplines of study. Joint Educators' proposed exemption sought to enable college and university students, as well as faculty, to use short portions of video, as well as to circumvent AACS-protected Blu-ray discs and digitally transmitted works. Finally, MEL requested an exemption for the circumvention of audiovisual works used for educational purposes by kindergarten through twelfth grade educators.

Because each of the proposals involved the use of clips from motion pictures or audiovisual works, the eight possible exemptions were addressed as a group in the Register's Recommendation. The proposals for exemptions to allow the circumvention of lawfully obtained motion pictures protected by access controls for various commercial, noncommercial, and ''primarily noncommercial'' purposes shared a unifying feature in that in each case, proponents were seeking an exemption to allow circumvention for the purpose of reproducing short clips to facilitate alleged noninfringing uses. Creators of noncommercial videos sought to use portions of motion pictures to create noninfringing works involving criticism or comment that they asserted were transformative. Documentary filmmakers and multimedia ebook authors sought to reproduce portions of motion pictures in new works offering criticism or commentary. Fictional filmmakers wished to incorporate motion pictures into new films to convey certain messages. Film and media studies professors sought to assemble motion picture excerpts to demonstrate concepts, qualities, and techniques. Other educators sought to reproduce clips of motion pictures to illustrate points for classroom discussion.

Joint Creators and DVD Copy Control Association (''DVD CCA'') opposed the proposals pertaining to noncommercial videos and, more generally, the use of motion pictures contained on CSS-protected DVDs. Joint Creators also opposed the use of motion pictures acquired via online distribution services. Joint Creators questioned whether proponents had met the required statutory burden for an exemption. They urged the Register precisely to analyze the alleged noninfringing uses to determine whether they were, in fact, noninfringing. In addition, they argued that the proposed exemption for circumvention of AACS-protected Blu-ray discs should not be approved.

DVD CCA maintained that none of the examples offered in support of the proposed exemptions for documentary filmmakers, fictional filmmakers, or multimedia ebook authors sufficiently established that CSS is preventing the proposed uses. DVD CCA asserted that there are several alternatives to circumvention, including clip licensing, screen capture software, and video recording via smartphone that would enable proponents affordably and effectively to copy short portions of motion pictures without the requested exemption.

As for educational uses, Joint Creators and DVD CCA did not oppose the granting of an exemption covering circumvention of CSS for a variety of college and university uses involving copying of short portions of motion pictures, but asserted that the exemption should be limited to conduct that is clearly noninfringing and requires high-quality content.

Advanced Access Content System License Administrator (''AACS LA'') generally opposed the requested exemptions as they would apply to AACS-protected Blu-ray discs. It asserted that proponents have failed to make the case that they face substantial adverse effects with respect to content available only on Blu-ray discs.

In reviewing the proposed classes, the Register noted that certain of the proposed exemptions referred to ''audiovisual works'' as opposed to ''motion pictures.'' The Register observed that Section 101 defines ''motion pictures'' as ''audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.'' Section 101 defines ''audiovisual works'' somewhat more broadly, as ''works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.'' Under the Copyright Act, ''motion pictures'' are thus a subset (albeit a very large one) of ''audiovisual works.'' The record for the proposed classes was directed to uses of motion pictures such as movies, television shows, commercials, news, DVD extras, etc., and did not focus on uses of audiovisual works that would fall outside of the Copyright Act's definition of ''motion pictures.'' Based on the record, the Register found no basis for considering exemptions beyond motion

pictures and treated the requested exemptions for ''audiovisual works'' as requests relating to motion pictures.

The Register determined that proponents of exemptions for noncommercial videos, commercial uses by documentary filmmakers and multimedia ebook authors, and uses in educational contexts had established that a significant number of the proposed uses were for purposes of criticism and commentary. She noted that such uses fall within the favored purposes referenced in the preamble of Section 107 and, especially in light of the brevity of the excerpts used, are likely to be fair uses. More specifically, the Register determined that the proposed uses tended to be transformative in nature, employing short clips for purposes of criticism, comment, teaching, and/or scholarship, rather than for the works' originally intended purpose. Despite the commercial aspect of uses by documentary filmmakers and multimedia ebook authors, the Register noted that when a short excerpt of a motion picture is used for purposes of criticism and comment, even in a commercial context, it may well be a productive use that serves the essential function of fair use as a free speech safeguard. While the Register did not conclude that a court would find each and every one of proponents' examples to be transformative, she did find that the record amply supported the conclusion that a substantial number of the proffered examples likely would be considered transformative fair uses.

The Register also concluded, however, that the same fair use analysis did not apply to fictional filmmakers, at least on the record presented. She noted that fictional films differ from the other categories of use because their purpose is typically for entertainment, rather than for criticism or comment. As the Register explained in her Recommendation, under appropriate circumstances, a use by a fictional filmmaker might well be a fair use. But fictional film proponents merely described their desired uses and did not present concrete examples—such as existing films that made use of preexisting material in a clearly transformative manner—that permitted the Register to make a finding of fair use in this context. The record did not allow a satisfying determination as to the nature of the fictional filmmakers' proposed uses, the amount of the underlying works fictional filmmakers generally sought to use, or whether or how such uses might affect the market for the original works.

In addition, the Register observed that, to the extent discernible from proponents' descriptions, a number of the examples cited did not appear readily to lend themselves to a conclusion that the described use would likely be considered fair. More specifically, the use of an earlier work to flesh out characters or motivations in a new work, or to develop a storyline, as suggested by some of proponents' descriptive examples, does not inherently serve the purpose of criticism or comment on the existing work. The Register therefore concluded, on the record before her, that fictional filmmakers had failed to establish that the uses in which they sought to engage were likely to be noninfringing.

Having determined otherwise with respect to the other proposed categories of use involving criticism and comment, however, the Register proceeded to consider whether there were adequate alternatives to circumvention to accommodate these noninfringing uses.

Opponents pointed to clip licensing, smartphone video recording, and screen capture software as alternatives to achieve the desired uses. The Register found that clip licensing was not a reasonable alternative, as the scope of content offered through reasonably available licensing sources was far from complete. Moreover, requiring a creator who is making fair use of a work to obtain a license is in tension with the Supreme Court's holding in *Campbell* v. *Acuff-Rose Music, Inc.,* 510 U.S. 569 (1994), that rightsholders do not have an exclusive right to markets for commentary on or criticism of their copyrighted works.

Nor did smartphone recording appear to be an adequate option, as the evidence indicated that smartphone recordings yielded inferior video and audio quality, and failed to capture the complete image as it was meant to appear on the screen.

In the 2010 proceeding, the Register determined that screen capture technology offered a cost-effective alternative technique to allow reproduction of motion pictures for certain uses. Unlike the last proceeding, where the Register raised screen capture technology as a possible alternative, in the current proceeding it was opponents who pointed to screen capture as a reasonable solution. However, based on the video evidence and commentary from proponents and opponents concerning screen capture technology, the Register determined that the screen capture images, while improved in quality since the last rulemaking, were still of lower quality than those available by circumvention of access controls on motion pictures; they were somewhat diminished in clarity and depth, and could exhibit pixilation.

Concerning screen capture, documentary filmmakers suggested that the lower-quality images generated by this technology were not suitable for the dissemination of their films. The Register found a similar argument persuasive in the previous rulemaking based on certain distribution standards generally requiring that films adhere to specific quality standards that cannot be met by screen capture. Unlike in the last proceeding, however, the Register was not convinced on the present record that the distribution requirements would give rise to significant adverse effects. In this proceeding, the parties explained the standards in greater detail, including the fact that certain accommodations are made by distributors with respect to pre-existing materials.

Nonetheless, the record did support the conclusion that, in some cases, for other reasons, the inability to circumvent to make use of higher-quality material available on DVDs and in protected online formats is likely to impose significant adverse effects on documentary filmmakers, noncommercial video makers, multimedia ebook authors, and certain educational users. Creators of noncommercial videos provided the most extensive record to support the need for higher-quality source material. Based on the video evidence presented, the Register concluded that diminished quality likely would impair the criticism and comment contained in noncommercial videos. For example, the Register was able to perceive that certain noncommercial videos would suffer significantly because of blurring and the loss of detail in characters' expression and sense of depth.

Although the record was not as robust in the case of documentary filmmakers and multimedia ebook authors, it was sufficient to support a similar finding that for certain uses—*i.e.,* when trying to convey a point that depends upon the ability to perceive details or subtleties in a motion picture excerpt—documentary filmmakers and ebook authors would likely suffer adverse effects if they were unable to incorporate higher-quality images. Similarly, educational uses that depend upon close analysis of film or media images might be adversely impacted if students are unable to apprehend the subtle detail or emotional impact of the images they are analyzing. But where precise detail is not required for the particular use in question—for example, where a clip is presented simply to illustrate a historical event—the Register

concluded that lower-quality screen capture images appeared adequate to fulfill the noninfringing use.

As an additional concern relating to screen capture technology, proponents maintained that even if the Register acknowledged now, as she did in 2010, that certain types of video capture software are noncircumventing, there is still no assurance that all copyright owners share this view. Proponents observed, for example, that litigation had been instituted over the use of similar methods of acquiring content protected by access controls. In light of the unsettled legal landscape, the Register determined that there is a need for limited exemptions to address the possible circumvention of protected motion pictures when using screen capture technology.

The record also indicated that there is some amount of motion picture material available only on Blu-ray discs, such as bonus material or, more rarely, entire films released exclusively on Blu-ray. However, the cited uses of Blu-ray-exclusive content in the record were insignificant in number. Moreover, with respect to documentary filmmakers in particular, for the reasons discussed above, the Register was not persuaded that Blu-ray content is necessary to meet applicable distribution standards. The Register therefore concluded that the record did not reflect a substantial adverse impact due to the inability to use motion picture materials contained on Blu-ray discs.

Overall, based on the record presented, the Register determined that, when a higher-quality excerpt is essential to a particular use, an exemption to permit circumvention of CSS-protected DVDs and protected online formats is appropriate. For uses where high-quality material is not critical, screen capture technology provides an adequate alternative to circumvention, and an exemption to permit the use of such technology is appropriate.

Looking to the statutory factors, the Register noted in her previous determination that ''while CSS-protected DVDs may very well have fostered the digital distribution of motion pictures to the public, there is no credible support for the proposition that the digital distribution of motion pictures continues to depend on the integrity of the general 'principle' that the circumvention of CSS is always unlawful.'' She found that the record in the current proceeding similarly failed to support a finding that there could be no exemption to the prohibition on circumvention of CSS-protected DVDs. In light of the negative impact the prohibition on circumvention has on favored uses, such as criticism, comment, news reporting, teaching, scholarship, and research, as established in the proceeding, the Register concluded that the statutory factors support appropriately tailored exemptions to facilitate those uses.

NTIA agreed that an appropriate exemption to permit proposed noninfringing uses is necessary because users lack sufficient alternatives to circumvention. It asserted that ''generally, the technological alternatives [to circumvention] produce low-quality videos, and associated license agreements often impose significant content limitations on the final work product.'' It further noted that clip services are limited in scope and may not meet the needs of all users, and that licensing negotiations are ''expensive and burdensome, especially when the licensee seeks to critique the copyrighted work.''

NTIA proposed that the Register recommend a class that encompasses ''[m]otion pictures and other similar audiovisual works on DVDs or delivered via Internet Protocol,'' asserting that the class should encompass ''audiovisual works,'' which is broader than ''motion pictures.'' NTIA also proposed to replace ''for the purpose of criticism or comment'' with ''for the purpose of fair use,'' and to expand the applicable circumstances beyond documentary filmmaking to include educational uses by college and university professors and college students, educational uses by kindergarten through twelfth grade educators, primarily noncommercial videos, and nonfictional or educational multimedia ebooks. Citing an inadequate definition of the proposed class of users, and a lack of demonstrated harm, the NTIA did not support an exemption for fictional filmmakers.

While the NTIA's views largely tracked those of the Register's concerning the need to designate appropriate classes, for the reasons discussed above, the Register did not believe that certain of NTIA's proposed expansions were supported by the record.

In explaining her recommended exemptions, the Register emphasized that the use of only short portions or clips was critical to her determination that the proposed uses were noninfringing. She rejected the proposed expansion of the exemption to cover unspecified ''noninfringing'' or ''fair'' uses where circumvention is not undertaken for the purpose of criticism or comment as, based on the record, criticism or comment were central to the uses supporting the exemption.

The Register also noted that while there might be additional noninfringing uses by multimedia ebook authors that could support a more broadly conceived exemption, the record in the proceeding supported only an exemption for ebooks offering film analysis.

Further, to the extent proponents for noncommercial videos sought an expanded exemption to cover ''primarily noncommercial videos''—as opposed to ''noncommercial videos''—they failed to demonstrate that a meaningful number of such uses would qualify as noninfringing; proponents identified only a single video that allegedly fell within this category, because it generated advertising revenue. It was not clear from the record, however, as to why such an example should be considered ''primarily noncommercial'' as opposed to ''primarily commercial.'' On the other hand, proponents established a sufficient basis to clarify that the exemption for noncommercial works should include videos created pursuant to a paid commission, provided that the commissioning entity uses the work solely in a noncommercial manner.

With respect to educational uses, the Register found that the record supported a determination that college and university professors and other faculty, as well as students, in film studies and other courses focused on close analysis of media excerpts may sometimes need to reproduce content from CSS-protected DVDs and protected online formats to enable such analysis. Because the recommended exemption is limited to educational activities involving close analysis, there was no basis to limit the exemption only to professors. The Register further determined that non-professor faculty at colleges and universities also should be permitted to take advantage of the exemption when there is a pedagogical need for high-quality source material. In addition, the record supported a finding that instructors of pre-college-level students sometimes engage in close analysis of motion picture excerpts in media-oriented courses and might have a need for high-quality source material.

The Register stressed that prospective users of the recommended exemptions for the use of motion picture excerpts should take care to ensure that they satisfy each requirement of the narrowly tailored exemptions before seeking to operate under their benefits, and consider whether there is an adequate alternative before engaging in circumvention under a recommended exemption. The Register noted that

screen capture technology should only be employed when it is reasonably represented, and offered to the public, as enabling the reproduction of motion picture content after such content has been lawfully decrypted—that is, when it is offered as a noncircumventing technology. And, finally, users of the limited exemptions should be prepared to defend their activities in light of the alternatives as they exist at the time of their use of the exemption, including any further innovations in screen capture or other technologies that may produce higher-quality results than were obtainable as of the Register's Recommendation.

E. Motion Pictures and Other Audiovisual Works—Captioning and Descriptive Audio

Motion pictures and other audiovisual works on DVDs that are protected by the Content Scrambling System, or that are distributed by an online service and protected by technological measures that control access to such works, when circumvention is accomplished solely to access the playhead and/or related time code information embedded in copies of such works and solely for the purpose of conducting research and development for the purpose of creating players capable of rendering visual representations of the audible portions of such works and/or audible representations or descriptions of the visual portions of such works to enable an individual who is blind, visually impaired, deaf, or hard of hearing, and who has lawfully obtained a copy of such a work, to perceive the work; provided however, that the resulting player does not require circumvention of technological measures to operate.

This exemption is a modification of the proponents' proposal. It permits the circumvention of motion pictures and other audiovisual works contained on DVDs or delivered through online services to facilitate research and development of players capable of rendering captions and descriptive audio for persons who are blind, visually impaired, deaf, or hard of hearing. The exemption responds to the primary need articulated by proponents in their submissions and at the hearings and one compelled by public policy, namely research and development. With respect to other uses proposed by proponents, the Register was unable to conduct a fair use analysis due to insufficient facts on the record, and, in particular, a lack of clear information regarding how captions and descriptive audio would be created, disseminated, or otherwise made available in connection with the underlying audiovisual work.

Proponents Telecommunications for the Deaf and Hard of Hearing, Inc., Gallaudet University, and the Participatory Culture Foundation proposed that the Register recommend four related classes of works to allow circumvention of technological measures applied to content distributed via the internet and ''fixed-disc media'' for the purpose of creating, improving, and rendering captions and descriptive audio tracks to enable individuals with disabilities to perceive such works, and for the purpose of conducting research and development on technologies to enable such accessibility. They urged that the prohibition on circumvention has had a ''decidedly negative'' impact on teaching, scholarship, research, and criticism. They stated that not only does the prohibition stifle the research and development associated with the development of accessible technologies, it also restricts the amount of content that is perceptible by individuals with disabilities.

Although not particularly clear from the proponents' written filings, at the hearing it became apparent that the primary interest was in the development of players capable of merging commercially accessible content with captions and descriptive audio that are created separately, generally by parties other than the copyright owner of the original copyrightable work. Proponents alleged that circumvention was necessary to achieve their objectives because they required access to the ''playhead,'' that is, the technical timing information embedded in internet-delivered and fixed-disc-based content that would allow proper synchronization of captions and descriptive audio with the underlying video content to which it applied.

Proponents explained that although some of the content in question is already captioned or provides descriptive audio, most does not. They acknowledged that the recently passed Twenty-First Century Communications and Video Accessibility Act (''CVAA''), Public Law 111–260 (codified in scattered sections of 47 U.S.C.), likely will require a substantial amount of digitally distributed programming to be captioned. However, they asserted that the CVAA does not extend to a wide range of content, including that which is distributed exclusively online (*e.g.,* content that does not appear first on broadcast or cable television). Indeed, in recent rulemaking proceedings under the CVAA, many content producers and distributors asserted that the creation or improvement of captions and descriptive audio is burdensome and would require permission from the copyright owners.

Proponents noted that the motion picture industry separately had asserted that voluntary captioning of a limited amount of programming would require ''eight years to phase in.'' They further noted that Netflix provides captions or subtitles on fewer than 5,000 of its nearly 12,000 titles. In addition, proponents explained that when such captions do exist, they may be ''riddled with errors'' or inconsistently formatted, hampering accessibility. With respect to descriptive audio, proponents observed that such tracks may play back at an inappropriate volume.

As for opposition, AACS LA and DVD CCA filed separate but substantially similar comments, taking issue with the proposed exemptions. They argued that the marketplace has evolved and will continue to evolve in such a way that satisfies accessibility needs. AACS LA further asserted that the proposed exemption potentially could harm future growth of the marketplace solutions for accessibility concerns. At the hearings, AACS LA offered a free license to its technology to enable developers to develop compatible implementations to enable accessibility, and it was suggested that DVD CCA would do so as well.

Joint Creators also opposed, similarly asserting that voluntary efforts and regulatory compliance are sufficient marketplace drivers for accessible materials. In addition, they maintained that proponents had failed to meet their burden. In their view, proponents had presented only scattered examples of errors in captions and that such errors are little more than a ''mere inconvenience''; they also suggested that the proposed underlying uses might infringe the reproduction, distribution, and adaptation rights of the copyright owners.

Assessing the record in light of the statutory factors, the Register concluded that a limited exemption was appropriate to facilitate the proposed research and development. The Register found that the substantial quantity of inaccessible content, and the likely increase in the amount of content distributed free from any requirement that it be rendered accessible, essentially limits the universe of materials with respect to which individuals with certain disabilities may engage in commentary, criticism, scholarship, and the like. As observed by the Register, the proposal was aimed at allowing the wide range of motion pictures and other audiovisual works that are available to the general population to be accessed and enjoyed

by those with disabilities. For such individuals, the exemption represents the difference between having and not having access to works available to everyone else.

The Register determined that the record with respect to research and development was sufficiently clear to support an exemption for those activities. Dr. Christian Vogler of Gallaudet University demonstrated a software development effort aimed at creating a player to combine captions or descriptive audio with commercially available motion picture and audiovisual content. With respect to this project, the Register was able to conclude that the purported use did not implicate the copyrighted content itself, but only certain non-protectable information *about* the work—*i.e.,* the timecode information accessible through the protected ''playhead.'' Moreover, the Register found that there did not appear to be any reasonable alternatives to circumvention in order to obtain this information. Although, as noted, AACS LA and DVDCCA had indicated a willingness to offer a free license to those interested in developing accessibility tools for playback devices, the record indicated that no such license was currently in place, and it was unclear whether such a license would come to fruition during the next three years.

The Register found that proponents had demonstrated that there is a wide range of content contained on CSS-protected DVDs and delivered in protected online formats that is inaccessible to individuals with certain disabilities and as to which there is no alternative, accessible version. She further determined that the record did not support the proposition that circumvention was necessary with respect to Blu-ray content, as the same content is generally available on DVDs or online.

Beyond research and development, the Register found that the scope of proponents' intended uses was difficult to discern from proponents' written submissions, as the papers were fraught with broad generalizations. During the hearing, proponents were able to articulate three broad categories of conduct: (1) Conducting research and development on accessible technologies to develop a player capable of presenting or manipulating captions or descriptive audio (as discussed above); (2) creating such captions or descriptive audio or corrections thereto; and (3) presenting such captions or descriptive audio along with the underlying lawfully acquired work. Still, the precise contours of certain aspects of the proponents' intended exploitation of the proposed exemption remained elusive.

Pointing to a footnote in *Sony Corporation of America* v. *Universal Studios, Inc.,* 464 U.S. 417 (1984), which provides in dicta that ''making a copy of a copyrighted work for the convenience of a blind person is * * * an example of fair use,'' proponents asserted that each of the broadly defined intended uses was fair. However, fair use analyses are, by statute, necessarily fact specific. Most of the proposed uses relating to the creation of captions and descriptive audio proposed by the proponents were so generally described that the Register found it impossible to evaluate whether they would be noninfringing. For example, proponents discussed both creating captions for content that is uncaptioned, including through crowdsourcing techniques, and fixing incorrect or poorly implemented captions. Each of these activities could have different implications under a traditional fair use analysis. Absent specific facts pertaining to the particularized uses, however, such an analysis was not possible.

NTIA supported proponents' proposals but suggested that the Register should recraft the exemptions into three categories that it believes were supported by the record. Specifically, NTIA would have fashioned a class specifically aimed at those developing the tools to facilitate the creation, improvement, or rendering of captions and descriptive audio; another class specifically for those engaged in the creation of captions and descriptive audio; and a third class for those using the captions and descriptive audio. NTIA further noted that it did not support the inclusion of Blu-ray because DVD remains the dominant format, online video distribution is outpacing Blu-ray adoption, and the effect of the proposals on the Blu-ray market was uncertain.

The Register and NTIA were in agreement on the need to ''open the doors for innovation and empower the millions of Americans with visual and hearing disabilities to participate to the fullest possible extent in our society's multimedia culture.'' However, for the reasons described above, the Register determined that, based on the current record, a more narrowly tailored class to permit research and development of assistive technologies was appropriate. The Register nonetheless made a point of encouraging the continued development of accessibility technologies and future proposals for exemptions to advance such efforts.

IV. Classes Considered But Not Recommended

Upon the recommendation of the Register of Copyrights, the Librarian has determined that the following classes of works shall not be exempt from the prohibition against circumvention of technological measures set forth in Section 1201(a)(1)(A):

A. Literary Works in the Public Domain—Digital Access

The Register concluded that the requested exemption to access public domain works was beyond the scope of the rulemaking proceeding and declined to recommend its adoption. As further explained in the 2010 rulemaking, ''Section 1201 does not prohibit circumvention of a technological protection measure when it simply controls access to a public domain work; in such a case, it is lawful to circumvent the technological protection measure and there is no need for an exemption.''

Proponent Open Book Alliance (''OBA'') proposed an exemption to permit the circumvention of literary works in the public domain to enable access to works that are digitally distributed. Proponent sought a ''clarification'' that circumvention of technological measures for the purpose of accessing such literary works does not violate Section 1201(a)(1).

As explained above, Section 1201(a)(1) provides that ''[n]o person shall circumvent a technological measure that effectively controls access to a work protected under this title.'' The prohibition on circumvention of technological protection measures thus does not apply to public domain materials because such materials are not protected under Title 17.

Joint Creators filed comments in response to OBA's proposal. Joint Creators did not object to the conclusion that Section 1201(a)(1) is inapplicable to literary works that are in the public domain but cautioned that many distributions of such literary works contain ancillary copyrightable elements, such as cover art, inserts, photographs, prefaces, and the like.

NTIA shared the proponent's concern that ''the implementation of [technological measures] restricts universal access'' to public domain material, and that such restrictions ''may have a negative impact on educational institutions and research organizations,'' as well as other adverse impacts on the public. NTIA also recognized, however, that works in the public domain are not affected by the prohibition on circumvention.

Accordingly, NTIA agreed that an exemption is not required for this class of works.

As Joint Creators observed, questions may arise when a technological measure controls access not only to a work in the public domain, but at the same time controls access to other works that are protected by copyright. There was no need for the Register to address this issue on the record presented, however, because proponents neither raised it nor presented any evidence relating to it.

B. Video Game Consoles—Software Interoperability

Because the Register determined that the evidentiary record failed to support a finding that the inability to circumvent access controls on video game consoles has, or over the course of the next three years likely would have, a substantial adverse impact on the ability to make noninfringing uses, the Register declined to recommend the proposed class.

EFF, joined by Andrew ''bunnie'' Huang (''Huang''), FSF, SaurikIT, LLC (SaurikIT), and numerous individual supporters, sought an exemption to permit the circumvention of access controls on video game console computer code so that the consoles could be used with non-vendor-approved software that is lawfully acquired.

EFF observed that modern video game consoles are increasingly sophisticated computing devices that are capable of running not only games but ''entire computer operating systems.'' All three major video game manufacturers, however—Sony, Microsoft, and Nintendo—have deployed technological restrictions that force console purchasers to limit their operating systems and software exclusively to vendor-approved offerings. These restrictions require a console owner who would like to install a computer operating system or run a ''homebrew'' (*i.e.,* independently developed) application to defeat a number of technical measures before they can do so—a process that proponents refer to as ''jailbreaking.'' Proponents sought an exemption from Section 1201(a)(1) to permit such jailbreaking of video game consoles. Because the class they proposed would enable interoperability only with ''lawfully obtained software programs,'' proponents asserted that the exemption would not authorize or foster infringing activities.

In its comments, EFF explained the circumvention process with reference to Sony's PlayStation 3 (''PS3''). Sony's PS3 employs a series of technological protections so that the console can only install and run authenticated, encrypted code. One such measure is the encryption of the console's firmware, which restricts access to the console. The firmware must be authenticated by the console's ''bootloader'' software and decrypted before it can be used. Once the firmware has been authenticated and decrypted, it, in turn, authenticates applications before they can be installed or run on the PS3. EFF added that Microsoft's Xbox 360 and Nintendo's Wii employ similar authentication procedures as technological protection measures.

In further support of its requested exemption, EFF recounted that when Sony launched the PS3 in 2006, it included a software application called ''OtherOS'' that permitted users to install Linux and UNIX operating systems on their consoles. EFF provided examples of researchers who were able to use these earlier PS3 consoles in lieu of other computer systems to conduct various forms of scientific research, citing an Air Force project that made use of 1700 PS3s, as well as two academic projects employing clusters of PS3s to create high-performance computers. Some of these researchers chose to use clustered PS3s because they were less expensive than the available alternatives. In 2010, however, Sony issued a firmware update for the PS3 that removed the OtherOS functionality. PS3 users were not forced to upgrade, but the failure to adopt the upgrade precluded access to certain gameplay features and might make repair or replacement of the gaming system more difficult.

EFF further asserted that none of the three major console manufacturers currently allows the installation of independently developed applications on their consoles unless the developer has obtained approval of the software from the manufacturer through a ''stringent'' process that may require the developer to license costly development tools. As a result, hobbyists and homebrew developers engage in circumvention to defeat technical restrictions in order to create and run games and other applications on the PS3, Wii, and Xbox consoles.

EFF noted over 450 independently created games and applications for Nintendo's Wii available on the homebrew site WiiBrew.org, as well as some 18 homebrew games and several nongaming applications developed for the PS3—including a file backup program called ''Multiman'' and an application that transforms the PS3 into an FTP server—and a handful of other homebrew applications for other platforms and handheld gaming devices. EFF pointed out that there is no strong homebrew community for the Xbox360, attributing this phenomenon to a Microsoft development program that allows developers to publish games ''with relative ease.''

Proponents argued that manufacturers' technological restrictions on video game consoles not only constrain consumer choice but also inhibit scientific research and homebrew development activities. Pointing to the Register's determination in the last Section 1201 rulemaking that circumvention of technological measures on smartphones to enable interoperability with lawfully obtained applications was a permissible fair use, proponents urged that the same logic should apply here. According to proponents, the restrictions on video game consoles do not protect the value or integrity of copyrighted works but instead reflect a business decision to restrict the applications that users can run on their devices.

EFF explained that a ''large community'' of console jailbreakers currently exists for all three major video game consoles but noted that such jailbreakers face potential liability under Section 1201(a)(1). As evidence of this, EFF cited recent litigation pursued by Sony against an individual and others who developed a method for jailbreaking the PS3. EFF explained that in January 2010, George Hotz (also known by his online name ''GeoHot'') published a method for jailbreaking the PS3. In response, Sony initiated a lawsuit against Hotz and others alleging, among other things, that the defendants had conspired to violate the DMCA.

Finally, a few supporters of EFF's proposal suggested potential scenarios in which a console might need to be jailbroken to effectuate a repair but did not provide any specific evidence of actual repair issues.

The proposal to permit circumvention of video game consoles was vigorously opposed by the Entertainment Software Association (''ESA''), Sony Computer Entertainment America LLC (''SCEA'' or ''Sony''), and Joint Creators. Opponents filed extensive comments in response to EFF's request.

ESA characterized video game consoles as ''the center of an intellectual property ecosystem'' which makes copyrighted content readily and legally accessible, stating that the entire system depends upon effective and secure access controls. ESA explained that there are at least two potential access controls at issue. To play an unauthorized application, the user must circumvent not only the encryption on the console's firmware, but also modify

the firmware to defeat the authentication check access control. It added that once modified, the firmware will operate, but the access controls will be circumvented, effectively allowing the console to run unauthorized content.

SCEA's comments focused on its PS3 console (the dominant example addressed in EFF's proposal). SCEA confirmed that the technological restrictions controlling access to the PS3 protect both its firmware and the copyrighted video games that are developed for that system. As explained by SCEA, allowing circumvention of the PS3 access controls would mean that the basic security checks could be skipped and the firmware freely modified to bypass or eliminate the process by which the video games are authenticated for use on the console, thus making it ''virtually certain that successful hackers, under the guise of the exemption, will create the tools that enable even novice users to make, distribute, download, and play back illegal copies of games.''

Throughout their comments, opponents stressed piracy as an overriding concern, noting that once a user circumvents a console's security measures—even for an ostensibly benign purpose—it becomes a vehicle for unauthorized content. In their view, EFF's attempt to limit the exemption to interoperability with lawful applications would make no difference in practice, because ''all known methods for circumventing game console [technological protection measures] necessarily eliminate the measures' ability to preclude the play, reproduction and distribution of infringing content.''

In support of their contentions regarding the link between circumvention and piracy, opponents provided documentation of console ''hacking packages'' that come bundled with applications to play pirated content. They further noted, again with supporting materials, that the homebrew channel installed with a popular Wii hacking package automatically includes applications that enable the console to play pirated content. They pointed out, with still further support in the record, that the ''Multiman'' backup system referenced by EFF as an example of a useful application enabled by jailbroken PS3s is used to decrypt and copy protected PS3 games so they can be illegally distributed. Other documentary evidence submitted by opponents showed that the PS3 FTP file server application described by EFF is used as a means to transfer illegal files. Opponents also furnished multiple examples of advertisements for console jailbreaking services that included (for an all-in price) a library of pirated games.

Opponents pointed to online forums and other sources that specifically referenced George Hotz's hack of the PS3—described sympathetically by EFF in its proposal—as permitting users to play pirated games and content, and provided representative postings. The documentation evidenced a broadly shared perception in the gaming community that jailbreaking leads to piracy. Notably, some of those providing commentary made the further observation that such piracy would negatively impact the development of new games.

Possibly referring to Hotz, SCEA elaborated on the hacking issue by commenting specifically on the events surrounding a 2010 breach of its PS3 system. In that case, hackers announced that they had successfully circumvented the technological measures on PS3 firmware, which was accomplished by exploiting vulnerabilities in Linux operating in the OtherOS environment. Although the hackers stated that they did not endorse or condone piracy, one hacker subsequently published PS3's encryption keys on the Internet, which were quickly used to create jailbreak software to permit the use of illegally made games. Sony saw an immediate rise in the number of illegal copies but no increase in homebrew development, while sales of legitimate software ''declined dramatically.'' As a result of the hack, Sony decided it had no choice but to discontinue OtherOS and issued a system upgrade that disabled OtherOS functionality for those who wished to maintain access to Sony's PlayStation network.

Mindful of the exemption established by the Librarian in the prior proceeding to permit jailbreaking of smartphones, opponents urged that video game consoles are not the equivalent of iPhones, asserting that the technological measures on game consoles legitimately protect the creation and dissemination of copyrighted works by discouraging pirated content and protecting creators' investment in new games. Opponents distinguished the development of a video game—a long and intensive process ''akin to * * * motion picture production'' involving a team of developers that can cost tens of millions of dollars—from the relative ease and inexpensiveness of creating a smartphone application. According to opponents, the development of new video games would be significantly impaired without reliable technological protections to protect developers' investments.

With respect to the need to jailbreak consoles to permit the operation of Linux-based homebrew programs, opponents observed that while EFF's request focused on the PS3, the homebrew community for that device is small, as evidenced by the fact that less than one-tenth of one percent of PS3 users (fewer than 2,000 in all) had made use of the PS3's OtherOS feature. In any event, they noted, there are over 4,000 devices on which Linux can be run without the need for circumvention, and homebrew games and applications can be played on a wide array of open platform devices. Opponents further observed that each of the three major video game console manufacturers has a program to support independent developers in creating and publishing compatible games.

Finally, opponents disputed proponents' suggestion that circumvention is necessary to repair broken game consoles, explaining that each console maker offers authorized repair services free of charge for consoles still under warranty for a nominal fee thereafter.

Although EFF sought to rely upon the Register's 2010 determination that modification of smartphone software to permit interoperability with non-vendor-approved applications was a fair use, the Register concluded that the fair use analysis for video consoles diverged from that in the smartphone context. Unlike in the case of smartphones, the record demonstrated that access controls on gaming consoles protect not only the console firmware, but the video games and applications that run on the console as well. The evidence showed that video games are far more difficult and complex to produce than smartphone applications, requiring teams of developers and potential investments in the millions of dollars. While the access controls at issue might serve to further manufacturers' business interests, they also protect highly valuable expressive works—many of which are created and owned by the manufacturers—in addition to console firmware itself.

The Register noted that research activities and functional applications that proponents claimed would be enabled by circumvention might well constitute transformative uses. On the other hand, circumventing console code to play games and other entertainment content (even if lawfully acquired) is not a transformative use, as the circumvented code is serving the same fundamental purpose as the unbroken code. While the second and third fair

use factors did not greatly affect the analysis, on the significant question of market harm, the Register concluded that opponents had provided compelling evidence that circumvention of access controls to permit interoperability of video game consoles—regardless of purpose—had the effect of diminishing the value of, and impairing the market for, the affected code, because the compromised code could no longer serve as a secure platform for the development and distribution of legitimate content. The Register noted that instead of countering this evidence with a factual showing to prove opponents wrong, EFF merely asserted that its proposal would not permit infringing uses. The Register did not believe that this response satisfied proponents' obligation to address the ''real-world impact'' of their proposed exemption. Overall, the Register found that proponents had failed to fulfill their obligation to establish persuasively that fair use could serve as a basis for the exemption they sought.

The Register further found that even if proponents had satisfied their burden of establishing noninfringing uses, they nonetheless failed to demonstrate that video game console access controls have or are likely to have a substantial adverse impact on such uses. Proponents identified two broad categories of activities that were allegedly threatened by the prohibition on circumvention, scientific research and homebrew software development. With respect to scientific research, a small number of research projects involving only one type of gaming console, the PS3, suggested a *de minimis* impact, if any. This conclusion was reinforced by record evidence indicating that Sony had in fact cooperated with and been a supporter of research efforts and that alternative computing resources for such projects were available in the marketplace.

Nor, according to the Register's analysis, did the record support a finding that Section 1201(a)(1) is having a substantial adverse impact on lawful homebrew activities. The most significant level of homebrew activity identified by EFF appears to have occurred in relation to the Wii, but the record was relatively sparse in relation to other gaming platforms. Concerning the use of video game consoles to operate Linux software generally, the record showed that only a very small percentage of PS3 users availed themselves of the (now discontinued) OtherOS option that permitted users to run Linux on their PS3s. At the same time, there are thousands of alternative devices that can be used to develop and run Linux-based video games and other applications. In addition, the record indicated that developers can and do take advantage of various manufacturer programs to pursue independent development activities.

Finally, as noted above, the Register determined that proponents offered no factual basis in support of their suggestion that users are having difficulty repairing their consoles as a result of Section 1201(a)(1). This appeared to be only a hypothetical concern, as proponents failed to document any actual instances of users seeking to make repairs.

The Register therefore concluded that proponents had failed to establish that the prohibition on circumvention, as applied to video game console code, is causing substantial adverse effects.

Turning to the statutory factors, the Register took issue with proponents' view that piracy was an irrelevant consideration because the exemption they sought was only to allow interoperability with ''lawfully obtained applications.'' The Register explained that she could not ignore the record before her. Even if piracy were not the initial or intended purpose for circumvention, the record substantiated opponents' assessment that in the case of video games, console jailbreaking leads to a higher level of infringing activity, thus sharply distinguishing the case of video consoles from smartphones, where the record did not support the same finding. The evidence also suggested that the restriction limiting the proposed class to ''lawfully obtained'' applications—which the Register has found effective in other contexts—did not provide adequate assurance in this case. The Register noted that simply to suggest, as proponents had, that unlawful uses were outside the scope of the exemption and therefore of no concern was not a persuasive answer.

Finally, the Register agreed with proponents' assessment that the access controls protecting video game console code facilitate a business model, as many technological restrictions do. But the Register concluded that in the case of gaming platforms, that was not the sole purpose. Console access controls protect not only the integrity of the console code, but the copyrighted works that run on the consoles. In so doing, they provide important incentives to create video games and other content for consoles, and thus play a critical role in the development and dissemination of highly innovative copyrighted works.

NTIA supported the ''innovative spirit epitomized by independent developers and researchers whose needs proponents contemplate in this class,'' but noted that the evidence in the record was insufficient to support the considerable breadth of the proposed class. NTIA asserted that the record was unclear with respect to the need for an exemption to enable software interoperability, and that there was compelling evidence of reasonable alternatives available for research purposes. NTIA was also ''cognizant of the proposal's likely negative impact on the underlying business model that has enabled significant growth and innovation in the video game industry.''

Although NTIA did not support the exemption as requested by proponents, it did support a limited exemption to allow videogame console owners to repair or replace hardware components, or to ''obtain unlicensed repairs when the console is out of warranty or when the console and authorized replacement parts are no longer on the market.'' As explained above, however, the Register found that the record lacked any factual basis upon which to recommend the designation of even such a limited class.

C. Personal Computing Devices—Software Interoperability

While the Register recognized that the concern expressed by proponents—that a broad implementation of restrictive access controls could preclude users from installing operating systems and applications of their choice—is a significant one, she found that proponents had relied heavily on speculation and failed to present specific and compelling evidence in support of a focused exemption. The Register therefore declined to recommend the adoption of the proposed class.

Software Freedom Law Center (''SFLC''), supported by FSF, Mozilla, SaurikIT, New Yorkers for Fair Use, Huang, and others, sought an exemption to permit the circumvention of computer programs on personal computing devices to enable the installation of other software, including alternative operating systems, when such software is lawfully obtained. The proposed exemption would have allowed circumvention by the device owner or by someone acting at the device owner's request.

In requesting this exemption, SFLC explained that there are two broad categories of access controls on personal computing devices: ''application locks,'' which effectively prevent users from installing certain software applications, and ''OS locks,'' which effectively prevent users from installing replacement operating systems. Citing the Librarian's 2010 determination

permitting jailbreaking of smartphones to enable interoperability, SFLC asserted that the restrictions addressed by the smartphone exemption have become commonplace on other mobile computing devices and have begun to appear on personal computers. Accordingly, SFLC contended that the smartphone exemption should be ''expanded'' to include ''all personal computing devices'' so as to permit circumvention for the purpose of installing any software the user chooses, including a new operating system.

SFLC explained that the mobile device market, which includes not only smartphones but also tablet computers, is dominated by Google's Android operating system and Apple's iOS, which together account for 94 percent of the market. The two most popular ebook readers, Amazon's Kindle and Barnes & Noble's Nook, are Android-based devices. According to SFLC, ''[a]ll of the restrictions addressed by the [smartphone] exemption are reproduced on the new formats.'' Thus, the iOS on the iPhone and iPad limits applications to those obtained from Apple's store. In the case of Android, users are allowed to install applications obtained from channels other than Google's Android Marketplace, but Android withholds ''many vital privileges'' (*i.e.,* important device functionalities) from alternatively sourced applications. In addition, even though the Kindle and Nook are Android-based, Amazon and Barnes & Noble have substituted their own exclusive distribution channels, which cannot be avoided without jailbreaking.

SFLC further observed that Microsoft has announced that it will require hardware manufacturers for the forthcoming Windows 8 operating system to enable a secure boot system—which can function as a type of OS lock—''by default.'' It asserted that because Microsoft controls nearly 90 percent of the operating system market, secure boot will be a ''nearly ubiquitous'' feature on personal computers in the next year. According to SFLC, this will ''decimate'' what is now a thriving market for alternative PC operating systems. In a further submission to the Copyright Office, however, SFLC conceded that Microsoft had established a program to enable developers to ''have their operating systems signed by Microsoft''—*i.e.,* to acquire a secure boot key—for a fee of 99 dollars.

SFLC acknowledged that the stated justification for OS locks is to protect device owners from malicious software by making it impossible for viruses to gain access to, or replace, a device's operating system. But in SFLC's words, ''[t]his 'security feature' is undiscerning: it will reject the device owner's intentional installation of an operating system just as it will reject a virus's payload.'' SFLC observed that ''[t]o the extent the firmware lock being circumvented merely prevents unauthorized operating systems from running, it does not protect access to a copyrighted work of the device producer, but rather prevents access to a competing copyrighted work to which the device owner has a license.''

On the question of noninfringing use, SFLC asserted that it is not infringing for the owner of a device to install applications that have not been approved by the device's manufacturer. According to SFLC, this conclusion—drawn from the Register's analysis and findings in the 2010 rulemaking proceeding—applies with equal force to application locks on devices other than smartphones, as well as to OS locks. SFLC noted that in 2010, the Register determined that circumvention for the purpose of achieving interoperability was either ''noninfringing or fair.'' SFLC further opined that, while modification of a preinstalled operating system is sometimes necessary to circumvent an application lock, the same is not true of OS locks, as removal of a device's default operating system does not implicate any of the exclusive rights of the owner of the operating system.

The proposed class was opposed by Joint Creators, who argued that the requested exemption ''targets every device and every platform, and creates an open-ended standard for circumvention.'' In their view, if granted, the exemption ''would strip any copyright owner, distributor, or licensee from exercising any choices with respect to how to construct a distribution system related to personal computing, and would thus expose copyright owners and their business partners to unnecessary risk, piracy, and unpredictability.'' Joint Creators characterized proponents' request as, ''at best, premature,'' and maintained that proponents had failed to meet the substantial burden required for an exemption.

Joint Creators also contended that the ''primary effects'' of such an exemption would be to enable distribution of pirated applications, and to remove technical limitations that would otherwise protect trial versions of applications. According to Joint Creators, circumvention of technical measures on computer programs is accomplished primarily to unlock trial versions of software or enable access to pirated copies or unauthorized modified versions.

Joint Creators stressed that proponents' arguments in favor of the proposed class were based on speculation rather than facts. They asserted that proponents' comments presented ''theories'' about what might occur but failed to demonstrate that the scenarios they portrayed were more likely than not. In particular, with respect to the secure boot issue, Joint Creators pointed out that proponents had not identified a single platform that precluded the installation of an alternative operating system.

Finally, Joint Creators asserted that the proposed class—in purporting to immunize circumvention, ''performed * * * at the request of the device's owner''—amounted to a request to exempt the provision of circumvention services, which is prohibited under Section 1201(a)(1)(E).

The Register found that proponents had offered very little support for their claim that the uses for which they sought an exemption are noninfringing, even though it is a threshold requirement before an exemption can be considered. Instead, proponents chose to rest their case upon the Register's conclusion in the 2010 rulemaking—in the context of smartphones—that it was not an infringement to install applications that have not been approved by a device's manufacturer. The Register opined that proponents' conclusory declaration that the expansive set of uses upon which they premised their request was noninfringing was inadequate in the context of the rulemaking.

The Register noted that the record was murky on the especially critical issue of whether the removal of an operating system from a device in its entirety—an activity proponents sought to facilitate through the rulemaking process—required the circumvention of technical measures *before* erasing the operating system, or whether it was possible to remove an operating system without prior circumvention (even if such removal also simultaneously removed the access controls for that operating system). At the hearings, the Copyright Office sought clarification on this point from the parties, but the results were inconclusive. Another question that was not answered by the record was whether an OS lock preventing the operation of an *alternative* operating system is in fact a technological measure protecting a copyrighted work within the meaning of Section 1201(a).

The Register explained that to the extent an operating system can be removed without having first to gain

access to the work through an act of circumvention, even if such work is protected for other purposes by technological measures, such removal would not constitute a violation of Section 1201(a)(1). This is because upon deletion of the work, any such technological measure is no longer ''effectively control[ling] access'' to the work. In such a case, of course, an exemption is unnecessary.

The Register also observed that much of proponents' concern appeared to be centered on Microsoft's to be launched Windows 8 operating system and its ''secure boot'' functionality. But proponents' own statements indicated that this concern was speculative. It appeared undisputed in the record that, at least as of today, purchasers of PCs are able to install alternative operating systems without resorting to circumvention. Indeed, proponents conceded that the specification allegedly adopted by Microsoft ''does not prevent manufacturers from allowing users to disable the lock or add non-Microsoft keys,'' and also acknowledged that Microsoft permitted developers to acquire keys for 99 dollars.

The Register determined that proponents' suppositions concerning the features of forthcoming software fell short of making a case that the harmful effects they posited were more likely to occur than not. The Register reiterated that mere speculation cannot support an exception to Section 1201(a)(1); rather, predicted adverse effects are only cognizable ''in extraordinary circumstances in which the evidence of likelihood of future adverse impact is highly specific, strong and persuasive.'' The Register concluded that proponents had failed to offer any such evidence here.

The Register additionally observed that granting an exemption for such a sweeping class would be without precedent in the history of Section 1201 rulemakings. In the past, faced with a proposed class with respect to which the proponents have offered substantial and persuasive evidence, but for which the definition proposed is not fully congruent with the proponents' showing, the Register has—to the extent a sufficient basis exists in the record—refined the class definition to ensure that it is appropriately tailored to her findings. But such refinement is only possible where the proponent of the proposed class has otherwise succeeded in demonstrating that some version of its exemption is warranted. The Register cannot delineate the appropriate contours of a class ''in a factual vacuum.''

As a final consideration, the Register noted that to the extent the proposed class would effectively permit the provision of circumvention services to others—as it appeared to do—it must be rejected, as the provision of such services to others is forbidden under Section 1201(a)(2) of the DMCA.

NTIA was ''not convinced that Secure Boot constitutes 'a technological measure that effectively controls access to a work' protected by U.S. copyright law.''' It further noted that proponents had failed to present evidence that the secure boot functionality restricted access to Windows 8 or any other work for purposes of protecting copyright. NTIA thus did not support the designation of the proposed class.

D. Motion Pictures and Other Works on DVDs and Other Media—Space Shifting

The Register concluded that proponents had failed to establish that the prohibition on circumvention is imposing an adverse impact on noninfringing uses and declined to recommend the requested exemptions for space shifting.

Proponent Public Knowledge, as well as proponents Cassiopaea, Tambolini, Susan Fuhs, Kellie Heistand, Andy Kossowsky, and Curt Wiederhoeft, sought similar exemptions to permit the circumvention of motion pictures and other works on DVDs and other media to enable ''space shifting,'' *i.e.,* the copying of complete works to permit personal use on alternative devices.

Proponent Public Knowledge stated a desire to move lawfully acquired motion pictures on DVDs to consumer electronic devices, such as tablet computers and laptop computers, that lack DVD drives. It asserted that consumers' inability to play lawfully acquired DVDs on the newest devices adversely affected noninfringing uses of the works contained on DVDs, and that a reasonable solution was for these consumers to copy the motion pictures into a format that could be viewed on the new devices. Public Knowledge urged that such an exemption ''would merely allow a user to make use of a motion picture she has already acquired.'' The space shifting proposals by the additional proponents—most of which were one page or less—sought similar exemptions, but offered few factual details and little or no legal analysis.

The current proposals were not unlike the proposal sought in the 2006 rulemaking. In that rulemaking, the Register declined to recommend a space shifting exemption in part because the proponents failed to offer persuasive legal arguments that space shifting was a noninfringing use. The Register also addressed space shifting in the 2003 rulemaking in her consideration of a requested exemption regarding ''tethering.'' In her 2003 recommendation, the Register observed that ''no court has held that 'space-shifting' is a fair use.''

Public Knowledge cited *RIAA* v. *Diamond Multimedia Systems Inc.,* 180 F.3d 1072 (1999), and *Sony Corporation of America* v. *Universal City Studios, Inc.,* 464 U.S. 417 (1984), in support of its contention that space shifting is a noncommercial personal use, and therefore a fair use. It applied the four-factor fair use test of Section 107 in support of its assertion that the sort of space shifting for which it sought an exemption is a noninfringing use. Public Knowledge further argued that the space shifting would not negatively impact the availability of, or harm the market for, copyrighted works, or contribute to piracy. Finally, Public Knowledge claimed that there were no reasonable alternatives to such space shifting.

Public Knowledge asked the Register to evaluate the legitimacy of personal space shifting through ''independent examination.'' According to Public Knowledge, the Section 1201(a) rulemaking process of ''recommending, consulting, determining, and speculating necessarily requires the Register to draw conclusions beyond parroting the statute and existing case law.''

Proponents of the additional proposals sought to exempt other digital works, including sound recordings and ebooks, in addition to motion pictures, for purposes of space shifting. They offered insufficient factual or legal analysis in support of their proposed exemptions, however.

DVD CCA opposed the requested exemptions by first observing that, although many new electronic devices are made without DVD drives, consumers can still play DVDs on such devices through the use of peripheral tools, *i.e.,* external drives that connect to the devices and are capable of playing DVDs. DVD CCA argued that just because a consumer prefers a portable device for certain purposes, it does not mean that the consumer is foreclosed from using a different device to play DVDs or that an exemption for space shifting is warranted.

DVDCCA further noted that, contrary to the statements made by Public Knowledge, consumers have not purchased the motion picture itself, but a DVD copy of the motion picture, which affords only the right to access the work according to the DVD format specifications, *i.e.,* through the use of a

DVD player. DVDCCA explained that consumers are able to purchase the copy at its retail price—typically less than 20 dollars—because it is distributed on a specific medium that will only play back on a licensed player. It stated that the Register has previously recognized that there is no unqualified right to access a work on a particular device.

DVDCCA alleged that the proposed exemption would harm the market for works distributed in the DVD medium as well as that for works offered in other digital media, explaining that the proposed exemption would displace sales for existing and forthcoming digital offerings that the DMCA was meant to encourage. It further alleged that the proposed exemption would create ''public confusion'' as to what is permitted activity.

Joint Creators similarly disputed Public Knowledge's assertion that consumers are adversely affected by an inability to play DVDs on electronic devices that are not designed to play DVDs, pointing to services that provide access to numerous titles for low subscription prices. They argued that it was not the purpose of the rulemaking to provide consumers with the most cost-effective manner to obtain commercial video content.

AACS LA opposed an exemption for space shifting that would apply to AACS technology protecting Blu-ray discs. It noted that proponents had failed to satisfy their burden to demonstrate that an exemption is warranted or that space shifting is a noninfringing act.

The Register recognized that there is significant consumer interest in the proposed exemption. Proponents, however, had the burden of demonstrating that the requested use was noninfringing. Neither of the two key cases relied upon by proponents, however, addresses or informs the space shifting activities at issue.

The Register noted that she had previously explained that *Diamond Multimedia*—a case in which the court was called upon to interpret the Audio Home Recording Act (''AHRA'')—''did not hold that 'space-shifting' is fair use. It did state, in dicta, that 'space-shifting' of digital and analog musical recordings is a noncommercial personal use consistent with the Audio Home Recording Act.'' Notably, neither *Diamond Multimedia,* nor the statute it interpreted, addressed motion pictures, the focus of Public Knowledge's proposal.

Turning to *Sony,* the Register clarified that that case involved ''time-shifting,'' defined by the Supreme Court as ''the practice of recording a program to view it once at a later time, and thereafter erasing it.'' It did not address the legality of ''librarying,'' *i.e.,* the maintenance of copies of copyrighted works. Here, by contrast, librarying was among the activities contemplated by the proposed exemptions.

The Register further observed that the law does not guarantee access to copyrighted material in a user's preferred format or technique. Indeed, copyright owners typically have the legal authority to decide whether and how to exploit new formats. The Register noted that while the law may someday evolve to accommodate some of proponents' proposed uses, more recent cases touching upon space shifting confirm that the fair use implications of various forms of space shifting are far from settled. The Register reiterated her view that the Section 1201 rulemaking process was ''not the forum in which to break new ground on the scope of fair use.'' She then proceeded to assess the proposed exemptions under the traditional fair use factors.

In urging that space shifting is a fair use, Public Knowledge characterized the copying of motion pictures for use on personal devices as a ''paradigmatic noncommercial personal use'' that could facilitate a transformative use. It further asserted that integrating reproductions of motion pictures from DVDs into a consumer's media management software was analogous to the integration of thumbnail images into Internet search engines found to be a transformative use in *Perfect 10, Inc.* v. *Amazon.com, Inc.,* 487 F.3d 701 (9th Cir. 2007).

The Register did not agree with this analysis. In her view, the incorporation of reproductions of motion pictures from DVDs into a consumer's media management software is not equivalent to the provision of public search engine functionality. Rather, it is simply a means for an individual consumer to access content for the same entertainment purpose as the original work. Put another way, it does not ''add[] something new, with a further purpose or different character, altering the first with new expression, meaning,'' or advance criticism, comment, or any other interest enumerated in the preamble of Section 107. The Register therefore concluded that the first fair use factor did not favor a finding of fair use. The Register additionally determined that where creative works were being copied in their entirety, factors two and three also weighed against fair use, and that there was an inadequate basis in the record to conclude that the developing market for the online distribution of motion pictures would not be harmed by the proposed uses.

Finally, the Register concluded that proponents had failed to demonstrate that the use of a reasonably priced peripheral, a different device, or an online subscription service to access and play desired content did not offer a reasonable alternative to circumvention. Accordingly, the Register was not persuaded that the inability to engage in the space shifting activities described by proponents is having a substantial adverse impact on consumers' ability to make noninfringing uses of copyrighted works.

NTIA suggested what it described as a ''more narrowly-constructed'' version of Public Knowledge's proposed exemption. Specifically, it supported an exemption to allow circumvention of lawfully acquired DVDs ''when the DVD neither contains nor is accompanied by an additional copy of the work in an alternative digital format, and when circumvention is undertaken solely in order to accomplish the noncommercial space shifting of the contained motion picture.'' NTIA voiced support for the motion picture industry's efforts to make content available on the wide range of new devices, and encouraged the industry to continue developing new offerings. It contended that by limiting the exemption to circumstances in which the market had not supplied alternatives to DVDs, ''the potential adverse effect on the market is minimal.''

The Register likewise expressed support for the motion picture industry's innovation and the development of market approaches to satisfy the demand for electronically distributed content. But while the Register was sympathetic to the desire to consume content on a variety of different devices, she noted that there is no basis under current law to assume that the space shifting activities that would be permitted under NTIA's proposal would be noninfringing. Moreover, in light of the record before her, the Register did not find that such activities would not adversely affect the legitimate future markets of copyright owners.

V. Conclusion

Having considered the evidence in the record, the contentions of the commenting parties, and the statutory objectives, the Register of Copyrights has recommended that the Librarian of Congress publish certain classes of works, as designated above, so that the prohibition against circumvention of

technological measures that effectively control access to copyrighted works shall not apply to persons who engage in noninfringing uses of those particular classes of works.

Dated: October 22, 2012.

Maria A. Pallante,

Register of Copyrights.

Determination of the Librarian of Congress

Having duly considered and accepted the Recommendation of the Register of Copyrights, which Recommendation is hereby incorporated by reference, the Librarian of Congress is exercising his authority under 17 U.S.C. 1201(a)(1)(C) and (D) and is publishing as a new rule the classes of copyrighted works that shall be subject to the exemption found in 17 U.S.C. 1201(a)(1)(B) from the prohibition against circumvention of technological measures that effectively control access to copyrighted works set forth in 17 U.S.C. 1201(a)(1)(A).

List of Subjects in 37 CFR Part 201

Copyright, Exemptions to prohibition against circumvention.

Final Regulations

For the reasons set forth in the preamble, 37 CFR part 201 is amended as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Section 201.40 is amended by revising paragraph (b) to read as follows:

§ 201.40 Exemption to prohibition against circumvention.

* * * * *

(b) *Classes of copyrighted works.* Pursuant to the authority set forth in 17 U.S.C. 1201(a)(1)(C) and (D), and upon the recommendation of the Register of Copyrights, the Librarian has determined that the prohibition against circumvention of technological measures that effectively control access to copyrighted works set forth in 17 U.S.C. 1201(a)(1)(A) shall not apply to persons who engage in noninfringing uses of the following classes of copyrighted works:

(1) Literary works, distributed electronically, that are protected by technological measures which either prevent the enabling of read-aloud functionality or interfere with screen readers or other applications or assistive technologies in the following instances:

(i) When a copy of such a work is lawfully obtained by a blind or other person with a disability, as such a person is defined in 17 U.S.C. 121; provided, however, the rights owner is remunerated, as appropriate, for the price of the mainstream copy of the work as made available to the general public through customary channels; or

(ii) When such work is a nondramatic literary work, lawfully obtained and used by an authorized entity pursuant to 17 U.S.C. 121.

(2) Computer programs that enable wireless telephone handsets to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the telephone handset.

(3) Computer programs, in the form of firmware or software, that enable a wireless telephone handset originally acquired from the operator of a wireless telecommunications network or retailer no later than ninety days after the effective date of this exemption to connect to a different wireless telecommunications network, if the operator of the wireless communications network to which the handset is locked has failed to unlock it within a reasonable period of time following a request by the owner of the wireless telephone handset, and when circumvention is initiated by the owner, an individual consumer, who is also the owner of the copy of the computer program in such wireless telephone handset, solely in order to connect to a different wireless telecommunications network, and such access to the network is authorized by the operator of the network.

(4) Motion pictures, as defined in 17 U.S.C. 101, on DVDs that are lawfully made and acquired and that are protected by the Content Scrambling System, where the person engaging in circumvention believes and has reasonable grounds for believing that circumvention is necessary because reasonably available alternatives, such as noncircumventing methods or using screen capture software as provided for in alternative exemptions, are not able to produce the level of high-quality content required to achieve the desired criticism or comment on such motion pictures, and where circumvention is undertaken solely in order to make use of short portions of the motion pictures for the purpose of criticism or comment in the following instances:

(i) In noncommercial videos;

(ii) In documentary films;

(iii) In nonfiction multimedia ebooks offering film analysis; and

(iv) For educational purposes in film studies or other courses requiring close analysis of film and media excerpts, by college and university faculty, college and university students, and kindergarten through twelfth grade educators. For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

(5) Motion pictures, as defined in 17 U.S.C. 101, that are lawfully made and acquired via online distribution services and that are protected by various technological protection measures, where the person engaging in circumvention believes and has reasonable grounds for believing that circumvention is necessary because reasonably available alternatives, such as noncircumventing methods or using screen capture software as provided for in alternative exemptions, are not able to produce the level of high-quality content required to achieve the desired criticism or comment on such motion pictures, and where circumvention is undertaken solely in order to make use of short portions of the motion pictures for the purpose of criticism or comment in the following instances:

(i) In noncommercial videos;

(ii) In documentary films;

(iii) In nonfiction multimedia ebooks offering film analysis; and

(iv) For educational purposes in film studies or other courses requiring close analysis of film and media excerpts, by college and university faculty, college and university students, and kindergarten through twelfth grade educators. For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

(6)(i) Motion pictures, as defined in 17 U.S.C. 101, on DVDs that are lawfully made and acquired and that are protected by the Content Scrambling System, where the circumvention, if any, is undertaken using screen capture technology that is reasonably represented and offered to the public as enabling the reproduction of motion picture content after such content has been lawfully decrypted, when such representations have been reasonably relied upon by the user of such technology, when the person engaging in the circumvention believes and has reasonable grounds for believing that the circumvention is necessary to achieve the desired criticism or comment, and where the circumvention is undertaken solely in order to make use of short portions of the motion

pictures for the purpose of criticism or comment in the following instances:

(A) In noncommercial videos;

(B) In documentary films;

(C) In nonfiction multimedia ebooks offering film analysis; and

(D) For educational purposes by college and university faculty, college and university students, and kindergarten through twelfth grade educators.

(ii) For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

(7)(i) Motion pictures, as defined in 17 U.S.C. 101, that are lawfully made and acquired via online distribution services and that are protected by various technological protection measures, where the circumvention, if any, is undertaken using screen capture technology that is reasonably represented and offered to the public as enabling the reproduction of motion picture content after such content has been lawfully decrypted, when such representations have been reasonably relied upon by the user of such technology, when the person engaging in the circumvention believes and has reasonable grounds for believing that the circumvention is necessary to achieve the desired criticism or comment, and where the circumvention is undertaken solely in order to make use of short portions of the motion pictures for the purpose of criticism or comment in the following instances:

(A) In noncommercial videos;

(B) In documentary films;

(C) In nonfiction multimedia ebooks offering film analysis; and

(D) For educational purposes by college and university faculty, college and university students, and kindergarten through twelfth grade educators.

(ii) For purposes of this exemption, ''noncommercial videos'' includes videos created pursuant to a paid commission, provided that the commissioning entity's use is noncommercial.

(8) Motion pictures and other audiovisual works on DVDs that are protected by the Content Scrambling System, or that are distributed by an online service and protected by technological measures that control access to such works, when circumvention is accomplished solely to access the playhead and/or related time code information embedded in copies of such works and solely for the purpose of conducting research and development for the purpose of creating players capable of rendering visual representations of the audible portions of such works and/or audible representations or descriptions of the visual portions of such works to enable an individual who is blind, visually impaired, deaf, or hard of hearing, and who has lawfully obtained a copy of such a work, to perceive the work; provided however, that the resulting player does not require circumvention of technological measures to operate.

* * * * *

Dated: October 22, 2012.

James H. Billington,

The Librarian of Congress.

[FR Doc. 2012–26308 Filed 10–25–12; 8:45 am]

BILLING CODE 1410–30–P

POSTAL SERVICE

39 CFR Part 111

Domestic Competitive Products Pricing and Mailing Standards Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to reflect changes to prices and mailing standards for the following competitive products: Express Mail®, Priority Mail®, First-Class Package Service™, Parcel Select®, Parcel Post®, Extra Services, Return Services, Mailer Services, and Recipient Services.

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

FOR FURTHER INFORMATION CONTACT: Margaret Choiniere (202) 268–7231 or Garry Rodriguez (202) 268–7281.

SUPPLEMENTARY INFORMATION: This final rule describes new prices and product features for competitive products, by class of mail, established by the Governors of the United States Postal Service®. New prices are available under Docket Number CP2013–3 on the Postal Regulatory Commission's (PRC) Web site at *http://www.prc.gov,* and are also located on the Postal Explorer® Web site at *http://pe.usps.com.*

Competitive product prices and changes are identified by product as follows:

Express Mail

Prices

Overall, Express Mail prices will increase 5.9 percent. Express Mail will continue to offer zoned Retail, Commercial Base™ and Commercial Plus™ pricing tiers.

Retail prices will increase an average of 6.5 percent. The price for the Retail Flat Rate Envelope, Legal Flat Rate Envelope, and the recently-introduced Padded Flat Rate Envelope is increasing to $19.95. The Flat Rate Box price will remain at $39.95.

The existing Commercial Base prices offer lower prices to customers who use online and other authorized postage payment methods. Commercial Base prices will increase 2.0 percent.

The existing Commercial Plus price category offers price incentives to large volume customers. Commercial Plus prices will increase 1.0 percent.

Priority Mail

Prices

Overall, Priority Mail prices will increase 6.3 percent. The price increase varies by price cell and price tier.

Retail prices will increase an average of 9.0 percent, but Retail Priority Mail will now include USPS® tracking and confirmation of delivery at no additional charge, offsetting about 3 percent of the increase. The regular Flat Rate envelope will be priced at $5.60, with the Legal Flat Rate Envelope priced at $5.75 and Padded Flat Rate Envelope priced at $5.95. Flat Rate Box prices will be: Small, $5.80; Medium, $12.35; Large, $16.85 and Large APO/FPO, $14.85.

Commercial Base prices offer lower prices to customers who use online and other authorized postage payment methods. Commercial Base prices will increase an average of 3.7 percent. Commercial Base pricing will offer an average 11.3 percent discount off retail prices.

Commercial Plus price category offers attractive price incentives to large volume customers. Commercial Plus prices will increase an average of 3.8 percent. Commercial Plus pricing will offer an average 16.2 percent discount off retail prices.

Critical Mail

Critical Mail® letters and flats are enhanced with a new option, signature upon delivery, as part of the service offering. The Critical Mail letter with signature option is priced at $4.60; the Critical Mail flat with signature option is priced at $5.35.

Critical Mail Returns

The Postal Service is providing a new option within the suite of USPS Returns Services to include Critical Mail pieces. This new product will afford customers the ability to expedite their returns by using barcoded USPS Critical Mail (letters and flats).

First-Class Package Service

Prices

Overall, First-Class Package Service prices will increase 3.0 percent. The Intelligent Mail® package barcode (IMpb) will continue to provide free USPS tracking and confirmation of delivery with these parcels.

New Payment Method for First-Class Package Service Commercial Plus

The Postal Service is revising the DMM to add PC Postage endicia as a new payment method for First-Class Package Service Commercial Plus parcels.

Surcharges for First-Class Package Service Parcels

First-Class Package Service mailers are currently assessed a $0.05 per piece surcharge for parcels weighing less than 2 ounces, parcels that are irregularly shaped (such as rolls, tubes or triangles), or parcels that lack a unique tracking barcode (previously a Postal routing barcode). These surcharges relate to additional handling required in Postal Service processing in order to work these pieces. As a result, the surcharge was not assessed for First-Class Package Service parcels presented in 5-digit/scheme containers.

The Postal Service is eliminating the surcharge for First-Class Package Service parcels under 2 ounces since the new prices will reflect that these pieces are generally nonmachinable. The Postal Service will retain a surcharge for First-Class Package Service parcels that are irregularly shaped, but will also retain the prior exclusion for parcels that are presented in 5-digit/scheme containers.

The standards implementing Intelligent Mail package barcodes (IMpb) requires an IMpb on First-Class Package Service parcels claiming presort pricing, effective January 7, 2013 (extended to January 27, 2013). Therefore the surcharge for parcels not bearing a barcode is no longer applicable for First-Class Package Service parcels claiming 5-digit, 3-digit or area distribution center (ADC) prices. The Postal Service will retain the surcharge for First-Class Package Service parcels claiming mixed ADC/single-piece prices that do not have a barcode. This surcharge and the surcharge for irregularly shaped First-Class Package Service parcels will increase to $0.08 per piece.

Parcel Select

Prices

On average, Parcel Select prices will increase 9.0 percent.

The average price increase for Parcel Select Destination Entry destination delivery unit (DDU) is 8.0 percent, for destination sectional center facility (DSCF) 4.9 percent, and for destination network distribution center (DNDC) 4.8 percent.

The prices for Parcel Select NDC (network distribution center) and ONDC (origin network distribution center) presorted parcels are increasing 5.7 and 4.3 percent respectively. The prices for Parcel Select Nonpresort parcels are increasing 4.2 percent.

The prices for Parcel Select Lightweight™ (PSLW) will increase 9.8 percent. The IMpb will continue to provide free USPS tracking and confirmation of delivery with PSLW as well.

Parcel Select Regional Ground

The Postal Service has decided to discontinue Parcel Select Regional Ground™ service due to inadequate usage.

Parcel Post

On July 20, 2012, in Docket No. MC2012–13, the PRC gave conditional approval for Parcel Post to be transferred to the competitive product list. The three conditions outlined in the docket have been met. Parcel Post is now a competitive product and pending review by the PRC the product will be renamed ''Standard Post™''. A global change will be made to the DMM for the January 27, 2013, update.

As a result of the transfer of Parcel Post to a competitive product, it will no longer be included under the list of products that comprise Package Services. Parcel Post will only be offered through retail channels, and will include USPS tracking and confirmation of delivery at no additional charge. Customers will now be able to access processing and delivery scans for their parcels online at USPS.com®.

Extra Services

Adult Signature Service

Adult Signature Service prices are increasing. The price for Adult Signature Required is $4.95 and Adult Signature Restricted Delivery is $5.15.

New Delivery Confirmation Label

In response to the structural changes being made to Delivery Confirmation extra service labels, the Postal Service will replace the current Label 314, *electronic Delivery Confirmation,* with a new Label 400, *USPS Tracking.* Label 400 will include an Intelligent Mail package barcode and will be provided for use by electronic option mailers. These labels may also be affixed to retail mailpieces by USPS retail associates when an applicable mailpiece is presented at a retail location without postage validation imprint (PVI) capability.

Return Services

Parcel Return Service

Parcel Return Service (PRS) prices will have an overall price increase of 4.8 percent. Return Network Distribution Center (RNDC) prices will have a 1.0 percent increase; Return Sectional Center Facility (RSCF) prices will increase less than 1.0 percent, and Return Delivery Unit (RDU) prices will increase 8.5 percent.

The Parcel Return Service annual permit fee and annual account maintenance fee are increasing. Information on fees can be found in the Domestic Mailing Services **Federal Register** Notice.

Nonstandard PRS Labels

PRS participants are required to use labels that meet the specific criteria described in the DMM. To allow for the consistent capture and staging of PRS mailpieces at their intended pick-up points, the Postal Service has constructed a rigorous precertification process to assure PRS labels meet these established criteria.

The Postal Service has recently become aware of incidents where PRS permit holders have used noncompliant labels, resulting in PRS parcels being routed to the address on mailpiece, instead of the intended pick-up point. In addition, some PRS permit holders have requested exceptions for the use of noncompliant dual-purpose labels that have also resulted in the misdirection of PRS mailpieces to the address on the label. Currently, the Postal Service does not have a pricing mechanism to account for these instances where additional handling has occurred due to a mailer's noncompliant label.

As a result, the Postal Service will now specify when noncompliant labels are affixed to PRS parcels, which travel through the postal network to the delivery address on the label, the permit holder will be charged postage at the appropriate Parcel Post price, calculated from the parcel's entry point in the USPS network to its delivery address. If the parcel's entry point can not be determined, then postage will be calculated at Zone 4.

Parcel Return Service—Full Network

The Postal Service is introducing a new option for mailers receiving large quantities of return parcels, Parcel Return Service—Full Network (PRS—

Full Network). Mailers with an annual volume of 50,000 or more return parcels, and who desire a full-network option from the USPS may enroll in PRS—Full Network.

PRS—Full Network provides a new returns option for mailers to receive return parcels entered by their customers anywhere within the Postal Service's network. PRS—Full Network features full network pricing, encompassing all eight USPS zones. To expedite delivery, PRS—Full Network will generally bypass the mailer's local delivery unit and will provide delivery of return parcels directly from the processing facility/sectional center facility (SCF) servicing the location of the mailer's designated return site.

PRS—Full Network participants will be required to pay postage through the scan based payment (SBP) program as specified in the DMM, and must obtain a Centralized Account Payment System (CAPS) debit account (instructions for enrollment are provided on the RIBBS Web site at *http://ribbs.usps.gov*). Participants will also be required to pay an annual Parcel Return Service (PRS) fee and an annual PRS account maintenance fee.

Each PRS—Full Network mailpiece must bear an Intelligent Mail package barcode that includes the appropriate service type code (STC), and a selection of STCs have been developed for use with PRS—Full Network mailpieces. Detailed specifications are defined in Publication 91, *Confirmation Services Technical Guide.*

The addition of PRS—Full Network to the USPS product line provides an alternative to the current first-mile option available through its regular PRS returns network, and a full network solution for those mailers who are unable to pick-up their returns at the locations specified in conventional PRS agreements.

This revision also incorporates clarifying language in the DMM under Scan Based Payment, providing that participants must pay postage through a Centralized Account Payment System (CAPS) debit account. This requirement has been a condition for the use of Scan Based Payment since its inception.

Mailer Services

Premium Forwarding Service

The enrollment fee for Premium Forwarding Service® (PFS®) will not increase, remaining at $15.00. The price of the weekly reshipment charge will increase from $15.25 to $17.00.

USPS Package Intercept

The USPS Package Intercept™ fee will not change for January 2013.

Pickup on Demand

The Pickup on Demand® service daily fee will increase from $15.30 to $20.00.

The Postal Service is revising the DMM to include Pickup on Demand enhancements that automate the payment method for all package pickup services, and also adds an option for requesting recurring pickups through the online package pickup program at *www.usps.com.*

Additionally, the Postal Service is revising the DMM to rename ''Carrier Pickup'' (a pickup that occurs as part of a regularly scheduled delivery or collection stop) as Package Pickup.

Recipient Services

Post Office Box Service

The competitive Post Office Box™ service prices will increase an average of 2.6 percent within the existing price ranges previously set.

Other

New for January 2013, customers can order flat rate packaging supplies online in smaller quantities than currently provided and will be able to pay a fee to get supplies delivered faster than the current free service provided. The new expedited service fee is priced at $2.50.

Resources

The Postal Service provides additional resources to assist customers with this price change for Shipping Services. These tools include price lists, downloadable price files, and **Federal Register** Notices, which may be found on the Postal Explorer Web site at *pe.usps.com.*

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

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

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

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

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

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

* * * * *

100 Retail Mail

* * * * *

102 Elements On the Face of a Mailpiece

* * * * *

3.0 Placement and Content of Mail Markings

* * * * *

3.3 Mail Markings

[Revise the first sentence in the introductory text of 3.3 as follows:]

Mailers must print the basic required Package Services subclass marking—''Media Mail,'' or ''Library Mail''—or ''Parcel Post'' on each piece claimed at the respective price. * * *

* * * * *

[Revise the first sentence of item 3.3a as follows:]

a. The service icon that will identify Parcel Post and all Package Services subclasses will be a 1-inch solid black square. * * *

[Revise the second sentence of item 3.3b as follows:]

b. * * * If the service banner is used, Parcel Post or the appropriate Package Services subclass marking (e.g., ''MEDIA MAIL,'' ''LIBRARY MAIL'') must be preceded by the text ''USPS'' and must be printed in minimum 20-point bold sans serif typeface, uppercase letters, centered within the banner, and bordered above and below by minimum 1-point separator lines. * * *

* * * * *

[Revise the heading of Exhibit 3.3 as follows:]

Exhibit 3.3 Parcel Post and Package Services Indicator Examples

[Revise the first example to have the indicator read ''USPS PARCEL POST'' instead of ''USPS PARCEL SELECT''.]

* * * * *

120 Priority Mail

* * * * *

126 Deposit

1.0 Deposit

* * * * *

[Delete 1.3, Returns, in its entirety.]

* * * * *

130 First-Class Mail

* * * * *

136 Deposit

1.0 Deposit for First-Class Mail

[Delete the heading 1.1, Single-Piece and Card Mailings, and move text under 1.0. Delete 1.2, Returns, in its entirety.]

* * * * *

150 Parcel Post

153 Prices and Eligibility

1.0 Parcel Post Prices and Fees

* * * * *

[Delete 1.2, Determining Single-Piece Weight, in its entirety. Renumber 1.3 through 1.7 as 1.2 through 1.6.]

* * * * *

1.2 Parcel Post Price Application

[Revise the text of renumbered 1.2 by adding a new last sentence as follows:]

* * * See Notice 123—Price List.

* * * * *

[Delete renumbered 1.3, Computing Postage—Parcel Post With Permit Imprint, in its entirety. Renumber 1.4 through 1.6 as 1.3 through 1.5.]

* * * * *

[Delete renumbered 1.5, Prices, in its entirety.]

* * * * *

2.0 Basic Eligibility Standards for Parcel Post

2.1 Definition of Parcel Post

[Revise the text of 2.1 as follows:]

Parcel Post is a separate product offered only through retail channels.

* * * * *

2.4 Delivery and Return Addresses

[Revise the text of 2.4 as follows:]

All Parcel Post mail must bear a delivery and return address.

* * * * *

154 Postage Payment Methods

1.0 Postage Payment Methods for Parcel Post

[Delete the heading 1.1, Payment Method, and move the text under 1.0. Revise the text as follows:]

The mailer is responsible for proper postage payment. Subject to the corresponding standards, postage for Parcel Post mail may be paid by postage evidencing system indicia (see 604) or by ordinary postage stamps. Pieces with postage affixed must bear the correct numerical value of postage.

[Delete 1.2, Affixing Postage—Single-Piece Mailings, and 2.0, Postage Paid With Permit Imprint, in their entirety.]

* * * * *

155 Mail Preparation

1.0 Preparation for Parcel Post

1.1 Basic Preparation

[Revise the text of 1.1 as follows:]

There are no presort, sacking, or labeling standards for Parcel Post pieces.

1.2 Delivery and Return Addresses

[Revise the text of 1.2 as follows:]

All Parcel Post pieces must bear both a delivery address and the sender's return address.

1.3 Basic Markings

[Revise the first sentence of 1.3 as follows:]

The basic required marking—''Parcel Post''—must be printed on each piece. * * *

* * * * *

[Delete 1.4, Required Use, in its entirety.]

* * * * *

156 Deposit

1.0 Deposit for Parcel Post

[Revise the heading of 1.1 as follows:]

1.1 Deposit

[Revise the text of 1.1 as follows:]

Parcel Post mail must be deposited at a time and place specified by the postmaster or designee at the office of mailing. Parcel Post is primarily intended to be presented at a USPS retail service counter where USPS tracking and confirmation of delivery service can be initiated.

[Delete 1.2, 1.3, and 1.4. Renumber 1.5 through 1.7 as new 1.2 through 1.4.]

* * * * *

[Delete renumbered 1.4, Returns, in its entirety.]

200 Commercial Letters and Cards

* * * * *

220 Priority Mail

223 Prices and Eligibility

1.0 Prices and Fees

* * * * *

1.4 Critical Mail Prices

[Renumber 1.4.1 and 1.4.2 as 1.4.2 and 1.4.3. Add new 1.4.1 as follows:]

1.4.1 Prices

Critical Mail letters has two price options, Critical Mail letters and Critical Mail letters with signature. For prices, see Notice 123—Price List.

* * * * *

300 Commercial Flats

* * * * *

320 Priority Mail

323 Prices and Eligibility

1.0 Prices and Fees

* * * * *

1.4 Critical Mail Prices

[Renumber 1.4.1 and 1.4.2 as 1.4.2 and 1.4.3. Add new 1.4.1 as follows:]

1.4.1 Prices

Critical Mail flats has two price options, Critical Mail flats and Critical Mail flats with signature. For prices, see Notice 123—Price List.

* * * * *

400 Commercial Parcels

* * * * *

401 Physical Standards

1.0 Physical Standards for Parcels

* * * * *

1.3 Maximum Weight and Size

[Revise the second sentence of 1.3 as follows:]

* * * Lower weight limits apply to parcels mailed at Priority Mail commercial plus cubic, Regional Rate Box, First-Class Package Service, Standard Mail, and Bound Printed Matter prices. ***

* * * * *

2.0 Additional Physical Standards by Class of Mail

* * * * *

2.5 Parcel Select

* * * * *

[Delete 2.5.3, Parcel Select Regional Ground, in its entirety and renumber 2.5.4 as 2.5.3.]

* * * * *

402 Elements on the Face of a Mailpiece

* * * * *

2.0 Placement and Content of Markings

* * * * *

[Revise the heading of 2.5 as follows:]

2.5 Parcel Select, Parcel Post, Bound Printed Matter, Media Mail, and Library Mail Markings

2.5.1 Basic Markings

[Revise the first sentence of the introductory text of 2.5.1 as follows:]

The basic required marking (e.g., ''Parcel Select'', ''Parcel Select Lightweight'', ''Parcel Post'', ''Bound Printed Matter'', ''Media Mail'', ''Library Mail'') must be printed on each piece claimed at the respective price. * *

* * * * *

[Delete item 2.5.1b and renumber 2.5.1c as 2.5.1b.]

* * * * *

2.5.2 Parcel Select Markings

* * * * *

[Delete item 2.5.2e and renumber item 2.5.2f as 2.5.2e.]

* * * * *

[Delete 2.5.3, Parcel Select Regional Ground Markings, in its entirety. Renumber 2.5.4 through 2.5.7 as 2.5.3 through 2.5.6.]

* * * * *

430 First-Class Package Service

433 Prices and Eligibility

1.0 Prices and Fees for First-Class Package Service

* * * * *

1.5 Surcharge

A surcharge applies for parcels with the following characteristics:

[Revise the text of item 1.5a as follows:]

a. Unless prepared in 5-digit/scheme containers, presorted parcels that are irregularly shaped, such as rolls, tubes, and triangles.

[Revise the text of item 1.5b by deleting the last sentence.]

* * * * *

3.0 Basic Standards for First-Class Package Service Parcels

* * * * *

3.4 IMpb Standards

[Revise the text of 3.4 as follows:]

First-Class Package Service parcels claiming presorted prices or with postage paid through a PC Postage system must bear an Intelligent Mail package barcode prepared under 708.5.0.

* * * * *

434 Postage Payment and Documentation

1.0 Basic Standards for Postage Payment

1.1 Postage Payment Options

[Revise the first sentence of 1.1 as follows:]

Postage for First-Class Package Service parcels must be paid with postage evidencing system postage or permit imprint as specified below.

* * *

* * * * *

2.0 Postage Payment for Presorted First-Class Package Service Parcels

* * * * *

2.2 Affixed Postage for First-Class Package Service Parcels

[Revise the introductory text of 2.2 as follows:]

Each presorted First-Class Package Service parcel bearing postage evidencing system indicia (IBI Meter or PC Postage permitted for Commercial Base, or PC Postage permitted for Commercial Plus parcels) must bear one of the following:

* * * * *

450 Parcel Select

453 Prices and Eligibility

1.0 Prices and Fees

1.1 Price Application

[Revise the fourth sentence in the introductory text of 1.1 by deleting the parenthetical at the end of the sentence.]

* * * * *

[Delete item 1.1d and renumber item 1.1e as 1.1d.]

* * * * *

[Revise the heading of 3.0 as follows:]

3.0 Price Eligibility for Parcel Select and Parcel Select Lightweight

* * * * *

[Delete 3.4, Parcel Select Regional Ground, in its entirety. Renumber 3.5 through 3.9 as 3.4 through 3.8.]

* * * * *

3.7 Delivery and Return Address

[Revise the third sentence of renumbered 3.7 as follows:]

* * * Alternative addressing formats under 602.3.0 or detached address labels under 602.4.0 may be used. * *

* * * * *

3.8 Hold for Pickup

[Revise the text of renumbered 3.8 as follows:]

Only Parcel Select Nonpresort parcels are eligible for Hold For Pickup service and are held at a designated Post Office location for pickup by a specified addressee or designee (see 508.8.0).

* * * * *

454 Postage Payment and Documentation

1.0 Basic Standards for Postage Payment

1.1 Postage Payment Options

* * * * *

[Delete 1.1.1 in its entirety.]

* * * * *

455 Mail Preparation

1.0 General Information for Mail Preparation

* * * * *

1.8 Parcel Select Markings

* * * * *

[Delete item 1.8e and renumber item 1.8f as 1.8e.]

* * * * *

[Delete 7.0, Preparing Parcel Select Regional Ground, in its entirety and renumber 8.0 as 7.0.]

* * * * *

456 Enter and Deposit

1.0 Verification

1.1 Verification and Entry

[Delete the last sentence of 1.1.]

* * * * *

1.2 Office of Mailing

[Delete the heading 1.2.1, Parcel Select, and move the text under 1.2. Delete 1.2.2 in its entirety.]

* * * * *

1.3 Redirected Mailings

[Revise the introductory text of 1.3 as follows:]

A shipper who presents large shipments of zoned Parcel Select mail may be authorized or directed to deposit such shipments at another postal facility when processing or logistics make such an alternative desirable for the USPS, subject to these conditions:

* * * * *

1.4 NDC Acceptance

[Revise the introductory text of 1.4 as follows:]

A mailer may present Parcel Select at a NDC for acceptance if:

* * * * *

2.0 Deposit

* * * * *

[Delete 2.18 and 2.19 in their entirety.]

* * * * *

500 Additional Mailing Services

503 Extra Services

1.0 Extra Services for Express Mail

* * * * *

1.2 Express Mail Drop Shipment

For an Express Mail drop shipment, the content of each Express Mail pouch is considered one mailpiece for indemnity coverage, and the mail enclosed may receive only the following services:

* * * * *

[Revise the text of item 1.2d as follows:]

d. Parcel Post, Package Services and Parcel Select mail may be sent with special handling or, for parcels only, electronic option Delivery Confirmation

service or electronic option Signature Confirmation service.

* * * * *

4.0 Insured Mail

* * * * *

4.2 Basic Information

* * * * *

4.2.2 Eligible Matter

The following types of mail may be insured:

[Revise the text of item 4.2.2a as follows:]

a. First-Class Mail, First-Class Package Service and Priority Mail (including Critical Mail), if it contains matter that is eligible to be mailed at Standard Mail, Parcel Post, or Package Services prices.

* * * * *

[Revise the text of item 4.2.2c as follows:]

c. Parcel Post, Package Services, and Parcel Select pieces.

* * * * *

4.2.4 Additional Services

* * * The following additional services may be combined with insurance if the applicable standards for the services are met and additional service fees are paid:

* * * * *

[Revise item 4.2.4f as follows:]

f. Adult Signature Required and Adult Signature Restricted Delivery are available for insured Express Mail, Priority Mail (including Critical Mail), and Parcel Select Nonpresort.

* * * * *

5.0 Certificate of Mailing

* * * * *

5.2 Basic Information

* * * * *

5.2.2 Eligible Matter—Single Piece

[Revise the text of 5.2.2 as follows:]

Form 3817, or a USPS approved facsimile, is used for a certificate of mailing for an individual First-Class Mail, Priority Mail (excluding Critical Mail), Parcel Return Service, Parcel Post, or Package Services mailpiece.

* * * * *

6.0 Return Receipt

* * * * *

6.2 Basic Information

* * * * *

6.2.2 Eligible Matter

Return receipt service is available for:

* * * * *

[Revise the text of item 6.2.2d as follows:]

d. Parcel Post or Package Services when purchased at the time of mailing with COD or insured mail (for more than $200.00).

* * * * *

6.2.4 Additional Services

If return receipt service has been purchased with one of the services listed in 6.2.2, one or more of the following extra services may be added at the time of mailing if the standards for the services are met and the additional service fees are paid:

[Revise the text of items 6.2.4a and 6.2.4b as follows:]

a. Delivery Confirmation (First-Class Mail parcels, Priority Mail, Parcel Post, Package Services, and Parcel Select parcels).

b. Parcel airlift service (PAL) (Priority Mail, Parcel Post, and Package Services).

* * * * *

[Revise the text of item 6.2.4d as follows:]

d. Signature Confirmation (Priority Mail, Parcel Post, Package Services, and Parcel Select parcels).

* * * * *

8.0 Restricted Delivery

* * * * *

8.2 Basic Information

* * * * *

8.2.2 Eligible Matter

Restricted Delivery service is available for:

* * * * *

[Revise the text of item 8.2.2c as follows:]

c. Parcel Post, Package Services, or Parcel Select pieces when purchased at the time of mailing with COD or insured mail (for more than $200.00).

* * * * *

9.0 Adult Signature

* * * * *

9.2 Basic Information

* * * * *

9.2.3 Eligible Matter

Adult Signature Required and Adult Signature Restricted Delivery are available for:

* * * * *

[Delete item 9.2.3d.]

* * * * *

9.2.4 Ineligible Matter

Adult Signature Required and Adult Signature Restricted Delivery are not available for:

[Renumber items 9.2.4c through 9.2.4h as 9.2.4d through 9.2.4i. Add new 9.2.4c as follows:]

c. Parcel Post.

* * * * *

9.2.6 Additional Services

Adult Signature may also be combined with:

* * * * *

c. Hold For Pickup

* * * * *

[Delete item 9.2.6c4.]

* * * * *

10.0 Return Receipt for Merchandise

* * * * *

10.2 Basic Information

* * * * *

10.2.2 Eligible Matter

[Revise the text of 10.2.2 as follows:]

Return receipt for merchandise is available for merchandise sent as Priority Mail (excluding Critical Mail), Standard Mail machinable and irregular parcels, Parcel Post, Package Services, and Parcel Select pieces.

* * * * *

11.0 Delivery Confirmation

11.1 Delivery Confirmation Fee

* * * * *

11.1.2 Fees and Postage

[Revise the last sentence of 11.1.2 as follows:]

* * * The electronic price is applicable when customers privately print an electronic Delivery Confirmation label or Label 400 and establish an electronic link with the USPS to exchange acceptance and delivery data.

11.2 Basic Information

* * * * *

11.2.2 Eligible Matter

[Revise the first sentence of the introductory text of 11.2.2 as follows:]

Delivery Confirmation service is available for First-Class Mail parcels and First-Class Package Service parcels (electronic option only); all Priority Mail pieces (at no additional charge); Standard Mail parcels (electronic option only); Package Services parcels, Parcel Post parcels (at no additional charge) and Parcel Select parcels. * * *

* * * * *

11.2.5 Service Options

The Delivery Confirmation service options are:

[Revise the text of items 11.2.5a and 11.2.5b as follows:]

a. Retail option: Available at the time of mailing and a mailing receipt is provided. A mailer may mail articles

with retail option Delivery Confirmation (Form 152) affixed at a Post Office, branch, or station, or give articles to a rural carrier. A mailer may also present Parcel Post or Priority Mail packages to a retail employee at a Post Office, station, or branch and the retail associate will affix a Delivery Confirmation label to the package at no additional charge. Mailers can access delivery information over the Internet at *www.usps.com* or by calling 1–800–222–1811 toll-free and providing the article number.

b. Electronic option: Privately printed forms or labels or Label 400 options are available to mailers who establish an electronic link with the USPS to exchange acceptance and delivery data. Since no mailing receipt is provided with the electronic option, mailers wishing to obtain a mailing receipt may use Form 3877 (11.2.8).

* * * * *

[Delete 11.2.7 in its entirety and renumber 11.2.8 as 11.2.7.]

* * * * *

11.3 Labels

11.3.1 Types of Labels

[Revise the introductory text of 11.3.1 as follows:]

Mailers not printing their own labels must use one of the label options shown below (for additional information see Publication 91, *Confirmation Services Technical Guide*):

* * * * *

[Revise the text of item 11.3.1b as follows:]

b. Label 400 is intended for use by electronic option mailers, and may be affixed to mailpieces by an associate when an applicable mailpieces are presented at retail locations without postage validation imprint (PVI) capability.

[Revise the heading and insert new Exhibit 11.3.1b as follows:]

Exhibit 11.3.1b Label 400

[Insert ''Label 400'' here.]

* * * * *

[Revise the text of item 11.3.1c as follows:]

c. Privately printed barcoded labels must meet the requirements in 11.3 and 11.4 and must include an Intelligent Mail package barcode prepared under 11.4 and 708.5.0. On the Priority Mail label, mailers must use the registered trademark symbol following the Priority Mail text or add the following statement at the bottom of the label in at least 6-point Helvetica type: ''Priority Mail is a registered trademark of the U.S. Postal Service.''

[Add new item 11.3.1d and Exhibit 11.3.1d as follows:]

d. Integrated Retail Systems Labels may be affixed to mailpieces, as applicable, by a retail associate when presented by a mailer at a Post Office, station, or branch.

Exhibit 11.3.1d Integrated Retail Systems PVI Label

[Insert ''PVI Label'' here.]

* * * * *

11.4 Barcodes

11.4.1 Barcode Use and Symbology

[Revise the introductory text of 11.4.1 as follows:]

Labels printed by mailers with Intelligent Mail package barcodes must meet the following GS1–128 barcode symbology requirements:

[Revise the first sentence of item11.4.1a as follows:]

a. Mailers printing their own barcodes and using the retail service option (11.2.5a) must use an Intelligent Mail package barcode with GS1–128 barcode symbology. * * *

[Revise the first sentence of item 11.4.1b as follows:]

b. Mailers printing their own Intelligent Mail package barcodes and using the electronic service option (11.2.5b) must use the GS1–128 barcode symbology. * * *

* * * * *

11.4.4 Integrated Barcodes

[Revise the fifth sentence of the introductory text of 11.4.4 as follows:]

* * * Minor modifications allow users to request multiple extra services on Priority Mail, Parcel Post, and Package Services parcels. * * *

* * * * *

12.0 Signature Confirmation

* * * * *

12.2 Basic Information

* * * * *

12.2.2 Eligible Matter

[Revise the introductory text of 12.2.2 as follows:]

Signature Confirmation is available for First-Class Mail parcels and First-Class Package Service parcels (electronic option only); all Priority Mail pieces; Parcel Post, Package Services, and Parcel Select parcels under 401.1.0. For the purposes of using Signature Confirmation with Parcel Post, Package Services or Parcel Select parcels, the parcel must meet these additional requirements:

* * * * *

13.0 Collect on Delivery (COD)

* * * * *

13.2 Basic Information

* * * * *

13.2.2 Eligible Matter

[Revise the introductory text of 13.2.2 as follows:]

COD service may be used for Express Mail, First-Class Mail, Priority Mail (excluding Critical Mail), Parcel Post, and any Package Services or Parcel Select (except Parcel Select Lightweight) sub-category if:

* * * * *

13.4 Mailing

* * * * *

13.4.6 Where to Mail

[Revise the text of 13.4.6 as follows:]

COD mail must be mailed at a Post Office, station, or branch or through a rural carrier. It may not be placed in a Post Office maildrop or in or on a street letterbox. It may be placed in, but not on, a rural mailbox.

* * * * *

14.0 Special Handling

* * * * *

14.2 Basic Information

* * * * *

14.2.2 Eligible Matter

[Revise the text of 14.2.2 as follows:]

Special handling service is available only for First-Class Mail, Priority Mail (excluding Critical Mail), Parcel Post, Package Services, and Parcel Select (except Parcel Select Lightweight) pieces.

14.2.3 Additional Services

The following extra services may be combined with special handling if the applicable standards for the services are met and the additional service fees are paid:

* * * * *

[Revise item 14.2.3d as follows:]

d. PAL (for Parcel Post or Package Services only).

* * * * *

505 Return Services

* * * * *

3.0 Merchandise Return Service

* * * * *

3.2 Basic Standards

3.2.1 Description

[Revise the text of 3.2.1 as follows:]

Merchandise return service allows an authorized permit holder to pay the

postage and extra service fees on single-piece price First-Class Mail, First-Class Package Service, Priority Mail, Parcel Post, Parcel Select and Package Services parcels that are returned to the permit holder by the permit holder's customers via a special label produced by the permit holder.

* * * * *

3.7 Priority Mail Reshipment

3.7.1 Description

[Revise the first sentence of 3.7.1 as follows:]

An authorized permit holder may use merchandise return service to have mail (previously sent at First-Class Mail, Parcel Post, and Package Services prices) reshipped by Priority Mail to the Post Office where the permit is held. * * *

* * * * *

4.0 USPS Return Services

4.1 Description

[Revise the first sentence of 4.1 as follows:]

Priority Mail Return Service (including Critical Mail), First-Class Package Return Service and Ground Return Service provide return service options to customers who meet the applicable standards in this section. * * *

* * * * *

4.3 Extra Services

[Revise the text of 4.3 as follows:]

Only USPS insurance for items with a value of $200 or less can be purchased by the mailer at retail for Priority Mail Return Service (including Critical Mail), First-Class Package Return Service and Ground Return Service.

4.4 Pricing

* * * * *

4.4.2 Commercial Plus Prices

Permit holders may combine cumulative volumes for Priority Mail Return Service and First-Class Package Return Service. Eligibility for commercial plus prices are available to permit holders who qualify for commercial base prices, and at least one of the following:

* * * * *

[Add new item 4.4.2e as follows:]

e. Have a signed commercial plus Critical Mail commitment agreement with USPS.

4.5 Computing Postage

[Revise the first sentence of 4.5 as follows:]

Postage is calculated based on the weight of the parcel and zone, except for First-Class Package Return Service, for which postage is based on the weight of the parcel and Critical Mail returns, for which postage is based on flat rate pricing. * * *

* * * * *

4.7 Priority Mail Return Service

* * * * *

[Add new 4.7.5 as follows:]

4.7.5 Critical Mail Returns

In addition to the applicable standards in 4.0, mailers may use Critical Mail barcoded letters and flats meeting eligibility standards in 223.0 and 323.0 for returns.

* * * * *

4.9 Ground Return Service

* * * * *

4.9.3 Prices and Eligibility

[Revise the third sentence of 4.9.3 as follows:]

* * * Ground Return Service eligibility and pricing are the same as retail Parcel Post.

* * * * *

5.0 Parcel Return Service

* * * * *

5.3 Prices

* * * * *

5.3.4 Parcel Post Prices

[Revise the text of 5.3.4 as follows:]

PRS-labeled parcels shipped from origin ZIP Codes 006–009, 967–969, and 995–999 that are picked up at an RNDC are subject to retail Parcel Post prices.

[Add new 5.3.5 as follows:]

5.3.5 Noncompliant Labels

PRS permit holders must use USPS-certified labels meeting the standards in 5.4. When noncompliant labels are affixed to PRS parcels, which travel through the Postal network to the delivery address of the label, the permit holder will be assessed the appropriate Parcel Post price, calculated from the parcel's entry point in the USPS network to its delivery address. If the parcel's entry point can not be determined, then postage will be calculated at zone 4.

* * * * *

[Renumber 6.0 as 7.0. Add new 6.0 as follows:]

6.0 Parcel Return Service—Full Network

6.1 Description

Parcel Return Service—Full Network (PRS—Full Network) provides for the bulk delivery of parcels to authorized permit holders or their agents. Permit holders must guarantee payment of postage for all parcels mailed with a PRS—Full Network label. By providing an approved PRS—Full Network label to its customers, the merchant or other party designates the permit holder identified on the label as their agent for receipt of mail bearing that label, and authorizes the USPS to deliver that mail to the permit holder or its designee. Payment for parcels returned under PRS—Full Network is deducted from a separate advance deposit (postage-due) account funded through the Centralized Account Processing System (CAPS) debit account as provided in 705.25, *Scan Based Payment.*

6.1.2 Conditions for Mailing

Parcels may be mailed as PRS—Full Network when all of the following conditions apply:

a. Parcels contain only matter that is eligible as Parcel Post, as described in 153.3.0 and 153.4.0.

b. Parcels bear a PRS—Full Network label that meets the standards in 6.4.

c. The permit holder has paid the annual PRS permit fee and the annual PRS account maintenance fee.

d. Permit holders must participate in the scan based payment (SBP) program under 705.25.0.

e. Permit holders must demonstrate an annual volume of at least 50,000 qualifying parcels to each location.

f. Each mailpiece must bear an accurate Intelligent Mail package barcode prepared under 708.5.0.

6.1.3 Services

Pieces using PRS—Full Network may not bear an ancillary service endorsement (see 102.4.0 and 507.1.5).

6.1.4 Customer Mailing Options

Returned parcels may be deposited as follows:

a. At any Post Office, station, or branch.

b. In any collection box (except an Express Mail box).

c. With any letter carrier.

d. As part of a collection run for other mail (special arrangements may be required).

e. At any place designated by the postmaster for the receipt of mail.

6.1.5 Application

Companies who wish to participate in PRS—Full Network must send a request on company letterhead to the manager, Business Mailer Support (see 608.8.0 for address). The request must contain the following information:

a. Company name and address.

b. An individual's contact name, telephone number, fax number, and email address.

c. The proposed delivery locations requested.

6.1.6 Approval

The manager, Business Mailer Support reviews each request and proceeds as follows:

a. If the applicant meets the criteria, the manager, Business Mailer Support approves the letter of request and sends an authorization letter outlining the terms and conditions for the program.

b. If the application does not meet the criteria, the manager, Business Mailer Support denies the request and sends a written notice to the applicant with the reason for denial.

6.1.7 Cancellation

The USPS may cancel a PRS—Full Network permit for any of the following reasons:

a. The permit holder fails to provide for adequate facilities to permit the delivery of PRS—Full Network mailpieces in bulk.

b. The permit holder fails to meet the terms of their SBP authorization or CAPS account agreement.

c. The permit holder does not fulfill the terms and conditions of the PRS—Full Network permit authorization.

d. The return labels do not conform to the specifications in 6.4.

6.1.8 Reapplying After Cancellation

To receive a new PRS—Full Network permit after cancellation under 6.1.7 the mailer must:

a. Submit a letter to the manager, Business Mailer Support requesting a permit and a new agreement.

b. Pay a new permit fee.

c. Provide evidence showing that the reasons for cancellation no longer exist.

d. Maintain adequate available funds to cover the expected number of returns.

6.1.9 Delivery Schedule and Location

Permit holders or their agents will receive parcels on a regular schedule from designated Postal facilities. Permit holders must provide an adequate location, appropriate to the volume of parcels received, for which to receive delivery of their PRS—Full Network mailpieces. When volume dictates, permit holders may be required to provide a delivery location with a dock or lift, and the ability to accept pallets or other USPS mail transport equipment.

6.2 Postage and Fees

6.2.1 Postage

Postage for PRS—Full Network includes prices for any machinable and non-machinable parcels. See Notice 123—Price List.

6.2.2 Fees

The participant must pay an annual PRS permit fee and an annual PRS account maintenance fee at each location where a PRS—Full Network permit is held. See Notice 123—Price List for applicable fee.

6.3 Prices

6.3.1 PRS—Full Network Prices

PRS—Full Network prices are zone-based, beginning from where the article entered the postal network to its designated delivery location.

6.3.2 Balloon and Oversized Prices

Parcels weighing less than 20 pounds but measuring more than 84 inches in combined length and girth are charged the applicable price for a 20-pound parcel (balloon price). Regardless of weight, any parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized price.

6.4 Label Formats

6.4.1 Label Preparation

PRS—Full Network labels must be certified by the USPS for use prior to distribution as defined in the service agreement. Labels must be prepared in accordance with the standards for Intelligent Mail package barcodes under 708.5.0. Any photographic, mechanical, or electronic process or any combination of these processes may be used to produce PRS—Full Network labels. The background of the label may be any light color that allows the address, barcodes, and other required information to be easily distinguished. If labels are electronically transmitted to customers for their local printing, the permit holder must advise customers of these printing requirements as part of the instructions in 6.4.3.

6.4.2 Labeling Methods

If all applicable contents and formats are approved (including instructions to the user), permit holders or their agents may distribute a PRS—Full Network label by any of the following methods:

a. As an enclosure with merchandise when initially shipped as part of the original invoice accompanying the merchandise, or as a separate label preprinted by the permit holder. If the reverse side of the label bears an adhesive, it must be strong enough to bond the label securely to the mailpiece.

b. As an electronic file created by the permit holder for local printing by the customer.

6.4.3 Instructions

Regardless of label distribution method, permit holders or their agents must always provide written instructions to the PRS—Full Network label end-user that, at a minimum, directs them as follows:

a. If your name and address are not already printed in the return address area, please print them neatly in that area or attach a return address label there.

b. Attach the label provided by the merchant squarely onto the largest side of the mailpiece, centered when possible. Place the label at least 1 inch from the edge of the parcel, so that it does not fold over to another side. If you are using tape to attach the new label, do not put tape over any barcodes on the label, even if the tape is clear.

c. If you are reusing the original container to return the merchandise, use the label to cover your original delivery address, barcodes, and any other postal information on the container. If it is not possible to cover all that information with the label, remove the old labels, mark them out completely with a permanent marker, or cover them completely with blank labels or paper that cannot be seen through. If that cannot be done, or if the original container is no longer sound, please use a new container to return the merchandise and attach the return label to the new container.

d. Once repackaged and labeled, mail the parcel at a Post Office, deposit it in a collection box, or leave it with your letter carrier.

6.4.4 Label Format Elements

PRS—Full Network standard label sizes are 3 inches by 6 inches, 4 inches by 4 inches, or 4 inches by 6 inches. All other label sizes require written approval from the National Customer Support Center (NCSC). The label must accommodate all required elements and must be prepared according to standards in this section and in 708.5.1. All PRS—Full Network label elements must be legible including the required Intelligent Mail package barcode (IMpb). Except where a specific type size is required, elements must be large enough to be legible from a normal reading distance and be separate from other elements on the label (see Exhibit 6.4.4). The following elements, in addition to the standards in 708.5.1, are required:

a. Product Marking. All PRS—Full Network mailpieces will bear ''Ground Return Service'' product marking as illustrated in Exhibit 6.4.4.

b. Customer's return address. The return address of the customer using the

label to mail the parcel back to the permit holder must appear in the upper left corner. If it is not preprinted by the permit holder or merchant, space must be provided for the customer to enter the return address.

c. Address for PRS—Full Network *labels.* The address must consist of three or four lines in all capital letters, as specified below. The ZIP Code must be printed in at least 12-point type.

1. Line 1: PRS PERMIT HOLDER'S/AGENT'S OR MERCHANT'S NAME.
2. Line 2: ATTENTION: RETURNS.
3. Line 3: The complete address and ZIP Code of the PRS Permit Holder/Agent or Merchant's delivery location, or unique Postal ZIP Code if assigned by the USPS in the service agreement.

Exhibit 6.4.4 PRS—Full Network Label

[Insert ''Ground Return Service Label'' here.]

* * * * *

7.0 Bulk Parcel Return Service

* * * * *

7.3.2 Availability

A mailer may be authorized to use BPRS when the following conditions apply:

[Revise renumbered item 7.3.2i as follows:]

i. Standard Mail or Parcel Select Lightweight parcels that qualify for a Media Mail or Library Mail price under the applicable standards, and that contain the name of the Package Service price in the mailer's ancillary service endorsement (507.1.5.3d) are not eligible for BPRS.

* * * * *

507 Mailer Services

1.0 Treatment of Mail

* * * * *

1.4 Basic Treatment

* * * * *

1.4.5 Extra Services

Mail with extra services is treated according to the charts for each class of mail in 1.5, except that:

* * * * *

[Revise the second sentence of item 1.4.5b as follows:]

b. * * * All insured Standard Mail, Parcel Post, Package Services, and Parcel Select pieces are forwarded or returned.

* * * * *

1.5 Treatment for Ancillary Services by Class of Mail

* * * * *

[Revise the heading of 1.5.4 as follows:]

1.5.4 Parcel Post, Package Services, and Parcel Select

[Revise the introductory text of 1.5.4 as follows:]

Undeliverable-as-addressed (UAA) Parcel Post, Package Services, and Parcel Select mailpieces are treated as described in Exhibit 1.5.4, with these additional conditions:

[Revise the text of item 1.5.4a as follows:]

a. Parcel Post, Package Services, and Parcel Select mail is forwarded only to domestic addresses.

* * * * *

[Revise the text of items 1.5.4c, 1.5.4d, and 1.5.4e as follows:]

c. The endorsement ''Change Service Requested'' is not permitted for Parcel Post, Package Services, or Parcel Select mailpieces containing hazardous materials under 601.10.0.

d. If a Parcel Post, Package Services (except for unendorsed Bound Printed Matter), or Parcel Select mailpiece and any attachment are not opened by the addressee, the addressee may refuse delivery of the piece and have it returned to the sender without affixing postage. Pieces endorsed ''Change Service Requested'' are not returned to sender. If a Parcel Post, Package Services, or Parcel Select piece or any attachment to that piece is opened by the addressee, the addressee must affix the applicable postage to return the piece to the sender.

e. An undeliverable Parcel Post, Package Services (except for unendorsed Bound Printed Matter), or a Parcel Select mailpiece that bears postage with a postage evidencing imprint and that has an illegible (or no) return address is returned to the meter licensee or PC Postage customer upon payment of the return postage. The reason for nondelivery is attached, with no address correction fee. All Parcel Post, Package Services (except unendorsed Bound Printed Matter), and Parcel Select pieces must have a legible return address.

* * * * *

[Revise the heading of Exhibit 1.5.4 as follows:]

Exhibit 1.5.4 Treatment of Undeliverable Parcel Post, Package Services, and Parcel Select

* * * * *

''Address Service Requested''[1]

[Revise the second bullet under ''If no change-of-address order on file:'' as follows:]

- Parcel Post and Package Services:

* * *

* * * * *

[Revise the introductory text of the first bullet under ''If change-of-address order on file:'' as follows:]

- *Months 1 through 12:* Parcel Post or Package Services forwarded postage due at the single-piece price for the class of mail. Parcel Select forwarded as postage due to addressee at the Parcel Select Nonpresort price plus the additional service fee. In both cases, separate notice of new address is provided (address correction fee charged). If addressee refuses to pay postage due, piece is returned with reason for nondelivery attached and postage charged as follows:

* * * * *

[Revise item b under the first bullet of ''If change-of-address order on file:'' as follows:]

b. Parcel Post and Package Services:

* * *

* * * * *

''Address Service Requested''

[Format the heading ''If no change-of-address order on file:'' in bold. Revise the text under ''If no change-of-address order on file:'' as follows:]

Parcel is returned with reason for nondelivery attached; return postage charged to the mailer as follows: at applicable Parcel Post or Package Services single-piece price for the specific class of mail or the Parcel Select Nonpresorted price plus the additional service fee; separate notice of new address provided (electronic ACS fee charged).

[Format the heading ''If change-of-address order on file:'' in bold. Revise the introductory text of the first bullet under ''If change-of-address order on file:'' as follows:]

- *Months 1 through 12:* Parcel is forwarded. Postage due is charged to the mailer as follows: at the applicable Parcel Post or Package Services single-piece price for the specific class of mail or the Parcel Select Nonpresort price plus the additional service fee. Separate notice of new address provided (electronic ACS fee charged).

* * * * *

''Forwarding Service Requested''[2]

[Revise the second bullet under ''If no change-of-address order on file:'' as follows:]

- Parcel Post and Package Services:

* * *

* * * * *

[Revise the introductory text of the first bullet under ''If change-of-address order on file:'' as follows:]

▪ *Months 1 through 12:* Parcel Post or Package Services forwarded postage due at the single-piece price for the class of mail. Parcel Select forwarded as postage due to addressee at the Parcel Select Nonpresort price plus the additional service fee. If addressee refuses to pay postage due, piece is returned with reason for nondelivery attached; postage charged as follows:

* * * * *

[Revise item b under the first bullet of ''If change-of-address order on file:'' as follows:]

b. Parcel Post and Package Services:

* * *

* * * * *

''Return Service Requested''

[Revise the text of the second bullet as follows:]

▪ Parcel Post or Package Services:

* * *

* * * * *

''Change Service Requested''[3]

[Revise item 2 under ''Restrictions'' as follows:]

(2) This endorsement is not permitted for Parcel Post or Package Services containing hazardous materials.

* * * * *

''Change Service Requested''

[Format the heading ''If no change-of-address order on file:'' in bold.]

* * * * *

[Format the heading ''If change-of-address order on file:'' in bold. Revise the first bullet under ''If change-of-address order on file:'' as follows:]

▪ *Months 1 through 12:* Parcel forwarded; postage due charged to the mailer as follows: at the Parcel Post or Package Services single-piece price for the specific class of mail or the Parcel Select Nonpresort price plus the additional service fee; separate notice of new address provided (electronic ACS fee charged).

* * * * *

[Revise item 2 under ''Restrictions'' as follows:]

(2) This endorsement is not permitted for Parcel Post or Package Services containing hazardous materials.

* * * * *

1.9 Dead Mail

Dead mail is matter deposited in the mail that is undeliverable and cannot be returned to the sender. A reasonable effort is made to match articles found loose in the mail with the envelope or wrapper and to return or forward the articles. The disposition of dead mail items is as follows:

* * * * *

[Revise the text of item 1.9e as follows:]

e. Except for unendorsed Standard Mail, undeliverable Standard Mail, Parcel Post, Package Services, and insured First-Class Mail or First-Class Package Service pieces containing Standard Mail, Parcel Post, or Package Services enclosures, that cannot be returned because of an incorrect, incomplete, illegible, or missing return address is opened and examined to identify the sender or addressee.

* * * * *

2.0 Forwarding

* * * * *

2.2 Forwardable Mail

* * * * *

2.2.3 Discontinued Post Office

[Revise the text of 2.2.3 as follows:]

All Express Mail, Priority Mail, First-Class Mail, First-Class Package Service, Periodicals, Parcel Post, and Package Services pieces addressed to a discontinued Post Office may be forwarded without added charge to a Post Office that the addressee designates as more convenient than the office to which the USPS ordered the mail sent.

2.2.4 Rural Delivery

[Revise the text of 2.2.4 as follows:]

When rural delivery service is established or changed, a customer of any office receiving mail from the rural carrier of another office may have all Express Mail, Priority Mail, First-Class Mail, First-Class Package Service, Periodicals, Parcel Post, and Package Services pieces forwarded to the latter office for delivery without added charge, if the customer files a written request with the postmaster at the former office.

* * * * *

2.2.6 Mail for Military Personnel

[Revise the first sentence of 2.2.6 as follows:]

All Express Mail, First-Class Mail, First-Class Package Service, Periodicals, Parcel Post, and Package Services mailpieces addressed to persons in the U.S. Armed Forces (including civilian employees) serving where U.S. mail service operates is forwarded at no added charge when the change of address is caused by official orders. ***

* * * * *

2.3 Postage for Forwarding

* * * * *

[Revise the heading and text of 2.3.6 as follows:]

2.3.6 Parcel Post, Package Services, and Parcel Select

Parcel Post, Package Services, and Parcel Select pieces are subject to the collection of additional postage at the applicable price for forwarding; Parcel Select at the Parcel Select Nonpresort price plus the additional service fee and Parcel Post or Package Services at the single-piece price for the specific class of mail. See 2.3.5 for forwarding instructions for Parcel Select Lightweight. The addressee may refuse any piece of Parcel Post, Package Services or Parcel Select that has been forwarded. Shipper Paid Forwarding, under provisions in 4.2.9, provides mailers of Package Services and Parcel Select parcels an option of paying forwarding postage on those parcels, or return postage if undeliverable, instead of the addressee paying postage due charges.

* * * * *

3.0 Premium Forwarding Service

* * * * *

3.3 Preparation

* * * * *

3.3.3 Mailpieces Requiring a Scan or Signature at Delivery

Mailpieces requiring a scan or signature at delivery, such as Express Mail or numbered insured mail, are scanned, and then rerouted immediately and separately to the temporary address, subject to the following:

* * * * *

[Revise the text of items 3.3.3b and 3.3.3c as follows:]

b. Standard Mail parcels and Parcel Select Lightweight are separately rerouted postage due at the appropriate 1-pound Parcel Post price.

c. Parcel Post, Package Services (Bound Printed Matter, Media Mail, and Library Mail), and Parcel Select mailpieces are separately rerouted postage due at the appropriate single-piece price in the class or subclass in which the mailpiece was originally shipped.

* * * * *

[Revise the heading of 3.3.7 as follows:]

3.3.7 Parcel Post, Package Services and Parcel Select Mailpieces Not Requiring a Scan or Signature at Delivery

[Revise the text of 3.3.7 as follows:]

Parcel Post, Package Services, and Parcel Select mailpieces not requiring a scan or signature at delivery are separately rerouted postage due at the appropriate single-piece price in the

class or subclass in which the mailpiece was originally shipped.

[Delete the heading 3.4, Enter and Deposit. Renumber 3.4.1 as new 3.3.8 as follows:]

3.3.8 Mailpieces Arriving Postage Due at the Primary Address

Any mailpiece arriving postage due at the Post Office serving a customer's primary address is not reshipped in the weekly Priority Mail shipment and will be rerouted individually. Mailpieces arriving postage due are rerouted as follows:

* * * * *

[Revise the text of renumbered item 3.3.8c as follows:]

c. Postage due Parcel Post, Package Services, and Parcel Select mailpieces are rerouted postage due at the appropriate single-piece price in the class or subclass in which the mailpiece was originally shipped. The total postage due for Parcel Post, Package Services, and Parcel Select mailpieces is the sum of the postage due at the time of receipt at the primary address plus the postage due for rerouting the mailpiece from the primary Post Office to the temporary address at the appropriate single-piece price.

4.0 Address Correction Services

4.1 Address Correction Service

* * * * *

4.1.5 Other Classes

[Revise the first sentence of 4.1.5 as follows:]

When possible, ''on-piece'' address correction is provided for Express Mail, Priority Mail, First-Class Mail, First-Class Package Service, Standard Mail, Parcel Post, Package Services, and Parcel Select pieces. ***

* * * * *

5.0 Package Intercept

5.1 Description of Service

* * * * *

5.1.1 Eligibility

[Revise the text of 5.1.1 as follows:]

Package Intercept service is available for any Express Mail, Priority Mail (including Critical Mail), First-Class Mail, First-Class Package Service, Parcel Select, Parcel Post, and Package Services mailpieces with a tracking barcode, addressed to, from or between domestic destinations (608.2.0) that do not bear a customs declarations label, and measuring not more than 108 inches in length and girth combined except as noted in 5.1.2.

* * * * *

7.0 Pickup on Demand

* * * * *

7.2 Basic Standards

7.2.1 Availability

Pickup on Demand service is available from designated Post Offices for:

* * * * *

[Revise item 7.2.1c as follows:]

c. Parcel Post.

* * * * *

[Delete 7.2.6 and renumber 7.2.7 through 7.2.9 as 7.2.6 through 7.2.8.]

* * * * *

7.2.8 International Mail

[Revise the introductory text of renumbered 7.2.8 as follows:]

The following types of international mail are available for Pickup on Demand, including a package pickup (under 7.3.3c), when all eligibility and preparation standards in the International Mail Manual are met:

* * * * *

7.3 Postage and Fees

* * * * *

7.3.3 Fee Not Charged

The customer is not charged for:

* * * * *

[Revise the text of item 7.3.3c as follows:]

c. A package pickup that occurs as part of a regularly scheduled delivery or collection stop.

* * * * *

7.3.4 Fee Payment Method

[Revise the introductory text of 7.3.4 as follows:]

The Pickup on Demand fee must be paid online at *www.usps.com.*

[Delete items 7.3.4a through 7.3.4e.]

* * * * *

7.4 On-Call Service

7.4.2 Requesting Pickup on Demand Service

[Revise the text of 7.4.2 as follows:]

A customer may request Pickup on Demand service and schedule a pickup at *www.usps.com.* Pickups may be requested within 2 hours of the required pickup time unless the customer and the serving Post Office agree, and service is not adversely affected. Depending on the time of the request and the delivery schedule of the serving Post Office, the pickup may be deferred to the next business day. When scheduling a Pickup on Demand, the customer must indicate the quantity and the class of mail to be picked up.

* * * * *

7.5 Scheduled Service

7.5.1 Availability

[Revise the text of 7.5.1 as follows:]

Pickup on Demand service is available from Post Offices with city delivery and from other Post Offices where the customer's address is within the servicing area of that post office.

* * * * *

7.5.4 Customer Changes

[Revise the text of 7.5.4 by adding a new last sentence as follows:]

* * * Customer should make notifications of change to their requests through the *www.usps.com* Pickup on Demand application.

7.5.5 USPS Changes

[Revise the first sentence of 7.5.5 as follows:]

The USPS may terminate Pickup on Demand service, effective 24 hours after the customer receives written notice of termination from the serving Post Office. * * *

* * * * *

508 Recipient Services

* * * * *

7.0 Hold for Pickup

* * * * *

7.2 Basic Information

* * * * *

7.2.2 Basic Eligibility

[Revise the second sentence of the introductory text of 7.2.2 as follows:]

* * * Hold For Pickup service is also available with online and commercial mailings of Priority Mail (except Critical Mail), First-Class Package Service parcels, and Parcel Select Nonpresort parcels when:

* * * * *

7.2.3 Additional Eligibility Standards

Parcels must meet these additional physical requirements:

* * * * *

[Revise the text of item 7.2.3b as follows:]

b. Except as provided in 7.2.3c, Parcel Select Nonpresort parcels must be greater than ¾ inch thick at the thickest point.

[Revise the first sentence of item 7.2.3c as follows:]

c. If the mailpiece is a Parcel Select Nonpresort parcel under 401.1.0 and is no greater than ¾ inch thick, the contents must be prepared in a container that is constructed of strong, rigid fiberboard or similar material or in a container that becomes rigid after the

contents are enclosed and the container is secured. * * *

* * * * *

7.2.4 Service Options

The Hold For Pickup service options are:

* * * * *

[Revise the second sentence of item 7.2.4b as follows:]

b. Electronic Option: * * * The electronic option is available for Priority Mail (excluding Critical Mail), First-Class Mail parcels, and Parcel Select barcoded, nonpresorted parcels. * * *

* * * * *

7.2.5 Ineligible Matter

Hold For Pickup service is not available for the following:

[Renumber items 7.2.5e through 7.2.5h as 7.2.5f through 7.2.5i. Add new 7.2.5e as follows:]

e. Parcel Post.

* * * * *

7.3 Preparation Definitions and Instructions

Except for Express Mail Hold For Pickup presented at retail Post Office locations, mailers or their agents must prepare mailpieces bearing the ''Hold For Pickup'' label as follows:

[Revise the text of item 7.3a as follows:]

a. Enter mailpieces at the Priority Mail, First-Class Mail parcel, or Parcel Select Nonpresort price.

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

602 Addressing

1.0 Elements of Addressing

* * * * *

1.5 Return Address

* * * * *

1.5.3 Required Use of Returned Addresses

The sender's domestic return address must appear legibly on:

* * * * *

[Renumber items 1.5.3g through 1.5.3n as 1.5.3h through 1.5.3o. Add new 1.5.3g as follows:]

g. Parcel Post.

* * * * *

[Revise the text of renumbered item 1.5.3i as follows:]

i. Parcel Select.

* * * * *

3.0 Use of Alternative Addressing

3.1 General Information

* * * * *

3.1.2 Prohibited Use

Alternative addressing formats may not be used on:

* * * * *

[Delete item 3.1.2d and renumber items 3.1.2e and 3.1.2f as 3.1.2d and 3.1.2e.]

* * * * *

604 Postage Payment Methods

* * * * *

5.0 Permit Imprint (Indicia)

* * * * *

5.3 Indicia Design, Placement, and Content

* * * * *

5.3.7 Standard Mail, Parcel Select and Package Services Format

[Revise the first sentence of 5.3.7 as follows:]

A Standard Mail, Parcel Select or Package Services permit imprint indicia must contain the same information required in 5.3.6, except that the Standard Mail, the applicable Parcel Select (Parcel Select or Parcel Select Lightweight), or the applicable Package Services (Bound Printed Matter, Media Mail or Library Mail) marking must be used instead of ''First-Class Mail.'' ***

* * * * *

5.3.11 Indicia Formats

* * * * *

Exhibit 5.3.11 Indicia Formats for Official Mail and Other Classes

* * * * *

Parcel Select

[Delete the middle indicia example (Parcel Select Regional Ground).]

* * * * *

Package Services

[Delete the heading ''Parcel Post:'' and the Parcel Post indicia example.]

* * * * *

7.0 Computing Postage

7.1 General Standards

7.1.1 Determining Single-Piece Weight for Retail and Commercial Mail

[Revise the text of 7.1.1 as follows:]

To determine single-piece weight in any mailing at single-piece prices, in a bulk mailing at Media Mail, or Library Mail prices, or in any bulk price mailing of nonidentical-weight pieces, weigh each piece individually. To determine single-piece weight in any other bulk or presort price mailing, weigh a sample group of at least 10 randomly selected pieces and divide the total sample weight by the number of pieces in the sample. Express all single-piece weights in decimal pounds rounded off to two decimal places for the following mailpieces: Express Mail, Priority Mail (except Critical Mail), Parcel Select, Bound Printed Matter, Media Mail, and Library Mail prices. Mailers using eVS may round off to two or four decimals, because eVS automatically rounds to the appropriate decimal place. For all other mailpieces, express all single-piece weights in decimal pounds rounded off to four decimal places.

* * * * *

8.0 Insufficient or Omitted Postage

* * * * *

8.3 Mailable Matter Without Postage in or on Mail Receptacles

* * * * *

8.3.4 Partial Distribution

[Revise the third and fourth sentences of 8.3.4 as follows:]

* * * For other matter, if the piece weighs less than 16 ounces, the applicable single-piece First-Class Mail or Priority Mail price based on the weight of the piece is applied, or Parcel Post or an applicable Package Services price is applied, whichever is lower. If the piece weighs 16 ounces or more, the Parcel Post or applicable Package Services price is applied.

* * * * *

9.0 Refunds and Exchanges

* * * * *

9.2 Postage and Fee Refunds

* * * * *

9.2.3 Torn or Defaced Mail

[Revise the first sentence of 9.2.3 as follows:]

If a First-Class Mail, First-Class Package Service, Parcel Post, or Package Services mailpiece is torn or defaced during USPS handling so that the addressee or intended delivery point cannot be identified, the sender may receive a postage refund. * * *

* * * * *

700 Special Standards

703 Nonprofit Standard Mail and Other Unique Eligibility

* * * * *

2.0 Overseas Military Mail

* * * * *

2.4 Military Ordinary Mail (MOM)

[Revise the first sentence of 2.4 as follows:]

Military ordinary mail (MOM) is DOD official mail sent at Periodicals, Standard Mail, Parcel Select, Parcel Post, or Package Services prices that requires faster service than sealift transportation to, from, and between military Post Offices. * * *

* * * * *

2.5 Parcel Airlift (PAL)

* * * * *

2.5.2 Availability

[Revise the text of 2.5.2 as follows:]

PAL is available for Parcel Post, Package Services, or Parcel Select pieces that do not exceed 30 pounds in weight or 60 inches in length and girth combined, when mailed at or addressed to any overseas military Post Office outside the 48 contiguous states.

* * * * *

7.0 Official Mail (Penalty)

* * * * *

7.12 Penalty Merchandise Return Service

7.12.1 Description

[Revise the text of 7.12.1 as follows:]

Merchandise return service allows an authorized permit holder to pay the postage and extra service fees on single-piece price First-Class Mail, Priority Mail, Parcel Post, Package Services (Bound Printed Matter, and Media Mail only) and Parcel Select Nonpresort, that is returned by the permit holder's customers via a special label produced by the permit holder as specified by 505.3.0.

* * * * *

7.12.8 Insurance Indicated by Permit Holder

[Revise the fourth sentence of 7.12.8 as follows:]

* * * Only Parcel Post, Parcel Select Nonpresort, and Package Services matter (matter not required to be mailed at First-Class Mail prices under 133.3.0) may be insured. * * *

* * * * *

7.12.11 Special Handling

[Revise the last sentence of 7.12.11 as follows:]

* * * Package Services items requiring special handling must have the following endorsement preprinted or rubber-stamped to the left of and above the ''Merchandise Return Label'' legend and below the ''Total Postage and Fees Due'' statement: ''Special Handling Desired by Permit Holder.''

* * * * *

9.0 Mixed Classes

* * * * *

9.12 Postage Payment for Combined Mailings of Media Mail and Bound Printed Matter

* * * * *

9.12.4 Rating of Unmarked Parcel

[Revise the introductory text of 9.12.4 as follows:]

A parcel containing Media Mail and Bound Printed Matter is charged postage at Parcel Select Nonpresort prices if it:

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

2.0 Manifest Mailing System

2.1 Description

2.1.1 Using an MMS

[Revise the second sentence of 2.1.1 as follows:]

* * * The MMS is an automated system that allows a mailer to document postage and fees for all pieces in Express Mail (Electronic Verification System ''eVS'' only under 2.9), First-Class Mail, Standard Mail, Parcel Select, Package Services, and international permit imprint mailings. * * *

* * * * *

2.1.2 Electronic Verification System

[Revise the text of 2.1.2 as follows:]

Mailers using a MMS when presenting Parcel Select destination entry mailings under 456.2.0 or commingled parcel mailings under 6.0 or 7.0, may document and pay postage using the Electronic Verification System (eVS) (see 2.9). Business Mailer Support (BMS), USPS Headquarters, must approve these systems. Unless authorized by Business Mailer Support, mailers may not commingle eVS mail with non-eVS mail within the same mailing or place eVS mail and non-eVS mail in or on the same mailing container.

* * * * *

2.9 Electronic Verification System

* * * * *

2.9.2 Availability

eVS may be used only for mail paid with a permit imprint and the following classes and subclasses of mail:

* * * * *

[Delete item 2.9.2f and renumber items 2.9.2g through 2.9.2j as 2.9.2f through 2.9.2i.]

* * * * *

6.0 Combining Mailings of Standard Mail, Package Services, and Parcel Select Parcels

6.1 Basic Standards for Combining Parcels

6.1.1 Basic Standards

[Revise the introductory text of 6.1.1 as follows:]

Standard Mail parcels, Parcel Select Lightweight parcels, Package Services parcels, and Parcel Select parcels in combined mailings must meet the following standards:

* * * * *

7.0 Combining Package Services and Parcel Select Parcels for Destination Entry

* * * * *

7.2 Combining Parcel Select and Package Services Machinable Parcels for DNDC Entry

7.2.1 Qualification

[Revise the second sentence of 7.2.1 as follows:]

*** These parcels may be eligible for Parcel Select DNDC/ASF, single-piece and Presorted Media Mail, single-piece and Presorted Library Mail, Bound Printed Matter DNDC, and single-piece and Presorted Bound Printed Matter prices. ***

* * * * *

17.0 Plant-Verified Drop Shipment

17.1 Description

* * * * *

17.1.2 Function

Under PVDS:

* * * * *

[Revise the text of item 17.1.2c as follows:]

c. For Standard Mail, Parcel Select, and Package Services, postage and fees are paid under a valid permit at the Post Office serving the mailer's plant, or as designated by the district manager.

* * * * *

22.0 Optional Combined Parcel Mailings

22.1 Basic Standards for Combining Parcel Select, Package Services, and Standard Mail Parcels

22.1.1 Basic Standards

[Revise the introductory text of 22.1.1 as follows:]

Package Services parcels, Parcel Select (including Parcel Select

Lightweight) parcels, and Standard Mail parcels in a combined parcel mailing must meet the following standards:

* * * * *

22.2 Price Eligibility

22.2.1 Eligible Prices

[Revise the text of 22.2.1 as follows:]

Combined parcels may be eligible for Standard Mail, Parcel Select, single-piece and Presorted Media Mail, single-piece and Presorted Library Mail, single-piece and Presorted Bound Printed Matter, and destination entry prices and discounts as applicable.

22.2.2 Price Application

Apply prices based on the criteria in 400 and the following standards:

* * * * *

[Delete item 22.2.2f.]

* * * * *

25.0 Scan Based Payment

25.1 Basic Information

* * * * *

25.1.2 Eligibility

[Revise the text of 25.1.2 as follows:]

SBP participation may be authorized for applicants who receive a minimum of 10,000 combined qualifying returns per year to one or more locations, when approved by the manager, New Business Opportunities. Returns include Ground Return Service, First-Class Package Return Service, Priority Mail Return Service (including Critical Mail), and Parcel Return Service shipments. Only parcels and flat rate parcels and flats may be processed through the SBP program. Participants must pay for postage through a Centralized Account Payment System (CAPS) debit account.

* * * * *

707 Periodicals

* * * * *

3.0 Physical Characteristics and Content Eligibility

* * * * *

3.4 Impermissible Mailpiece Components

* * * * *

3.4.3 Products

[Revise the text of 3.4.3 as follows:]

Except as provided for in 3.3.9, products may not be mailed at Periodicals prices. Examples include stationery (such as pads of paper or blank printed forms); cassettes; floppy disks; CDs; DVDs; merchandise, including travel-size merchandise in commercially available form or packaging; and wall, desk, and blank calendars. Printed pages, including oversized pages and calendars, are not considered products if they are not offered for sale. Parcel Post, Package Services, or Parcel Select mail pieces may not be combined with a Periodicals publication.

* * * * *

4.0 Basic Eligibility Standards

* * * * *

4.8 Eligible Formats

4.8.1 Complete Copies

[Revise the last sentence of 4.8.1 as follows:]

*** Incomplete copies (for example, those lacking pages or parts of pages) are subject to the applicable First-Class Mail, Standard Mail, Parcel Post, or Package Services prices.

* * * * *

4.11 Back Issues and Reprints

[Revise the last sentence of 4.11 as follows:]

*** Other mailings of back issues or reprint copies, including permanently bound back issues or reprint copies, are subject to the applicable First-Class Mail, Standard Mail, Parcel Post, or Package Services prices.

* * * * *

6.0 Qualification Categories

* * * * *

6.6 News Agent Registry

* * * * *

6.6.5 Parts Returned

[Revise the text of 6.6.5 as follows:]

Parts of publications returned to publishers to show that copies have not been sold are subject to the applicable Standard Mail, Parcel Post, or Package Services prices.

* * * * *

7.0 Mailing to Nonsubscribers or Nonrequesters

* * * * *

7.9 Nonrequester and Nonsubscriber Copies

* * * * *

7.9.7 Excess Noncommingled Mailing

[Revise the last sentence of 7.9.7 as follows:]

*** These copies are subject to the appropriate Express Mail, First-Class Mail, Standard Mail, Parcel Post, or Package Services price.

7.9.8 Mixed Mailing

[Revise the last sentence of 7.9.8 as follows:]

*** That portion is subject to the appropriate Express Mail, First-Class Mail, Standard Mail, Parcel Post, or Package Services price.

* * * * *

11.0 Basic Eligibility

* * * * *

11.5 Copies Mailed by Public

[Revise the text of 11.5 as follows:]

The applicable single-piece First-Class Mail, Priority Mail, Parcel Post, or Package Services price is charged on copies of publications mailed by the general public (i.e., other than publishers or registered news agents) and on copies returned to publishers or news agents.

* * * * *

28.0 Enter and Deposit

* * * * *

28.2 Basic Standards

[Revise the second sentence of the introductory text as follows:]

*** The First-Class Mail, Standard Mail, Parcel Select, Parcel Post, or Package Services price must be paid on all copies mailed by the public or by a printer to a publisher. ***

* * * * *

708 Technical Specifications

* * * * *

6.0 Standards for Barcoded Tray Labels, Sack Labels, and Container Placards

* * * * *

6.2 Specifications for Barcoded Tray and Sack Labels

* * * * *

6.2.4 3-Digit Content Identifier Numbers

* * * * *

Exhibit 6.2.4 3-Digit Content Identifier Numbers

* * * * *

Parcel Select

* * * * *

[Delete the Parcel Select Regional Ground section (heading and three line items, ONDC Sacks, MXD ONDC Sacks, and OSCF Sacks).]

* * * * *

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

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–26243 Filed 10–25–12; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0194; FRL–9723–1]

Approval and Promulgation of Implementation Plans; California; Revisions to the California State Implementation Plan Pesticide Element

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving several revisions to the Pesticide Element of the California state implementation plan (SIP). These revisions include regulations adopted by the California Department of Pesticide Regulation (CDPR) that: Reduce volatile organic compound (VOC) emissions from the application of agricultural field fumigants in the South Coast, Southeast Desert, Ventura County, San Joaquin Valley (SJV), and Sacramento Metro ozone nonattainment areas by restricting fumigant application methods; establish a fumigant emission limit and allocation system for Ventura County; require CDPR to prepare and make available to the public an annual pesticide VOC emissions inventory report; and require recordkeeping and reporting of pesticide usage. EPA is also approving CDPR's commitments to manage VOC emissions from the use of agricultural and commercial structural pesticides in the SJV to ensure that they do not exceed 18.1 tons per day and to implement restrictions on VOC emissions in the SJV from non-fumigant pesticides by 2014. We are approving these regulations and commitments as complying with applicable requirements of the Clean Air Act. Lastly, EPA is finalizing its response to remands by the Ninth Circuit Court of Appeals of EPA's previous approvals of the California SIP Pesticide Element.

DATES: The rule is effective November 26, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0194 for this action. The index to the docket is available electronically at *www.regulations.gov* and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some may be publicly available only at the hard copy location (e.g., copyrighted material) and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with one of the contacts listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: For information on the approval of CDPR's regulations: Nancy Levin, Rules Office (AIR–4), (415) 972–3848, *levin.nancy@epa.gov.* For information on the approval of CDPR's commitments and the response to the Ninth Circuit remands: Frances Wicher, Air Planning Office (AIR–2), (415) 972–3957, *wicher.frances@epa.gov.*

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

Table of Contents

I. Summary and Background
II. Responses to Public Comments on the Proposed Action
III. Final Action
IV. Statutory and Executive Order Reviews

I. Summary and Background

This action deals with revisions to California's federally-approved program to reduce volatile organic compound (VOC) emissions from the use of agricultural and structural pesticides to improve ozone air quality in five areas of the State: the South Coast, Southeast Desert (SED), Ventura County, San Joaquin Valley (SJV), and Sacramento Metro ozone nonattainment areas. VOC from pesticides and other sources react in the atmosphere with nitrogen oxides (NO_X) from mobile and other combustion sources in the presence of sunlight to form ozone.

EPA is approving as revisions to California state implementation plan (SIP) regulations and commitments adopted by the California Department of Pesticide Regulation (CDPR). These CDPR regulations and commitments were submitted by the California Air Resources Board (CARB) to EPA as follows:

1. October 12, 2009 submittal of the following CDPR regulations:

- Title 3 California Code of Regulations (3 CCR), sections 6447 (first paragraph) and 6447.3–6452 pertaining to field fumigation methods;
- Portions of 3 CCR sections 6452.1–6452.4 and sections 6624 and 6626 pertaining to emissions inventory;
- 3 CCR sections 6452.2 and 6452.3 pertaining to field fumigation limits and allowances in the Ventura County ozone nonattainment area.

2. October 12, 2009 submittal of CDPR's revised SIP commitment for the San Joaquin Valley (adopted by the CDPR Director, April 17, 2009). This submittal limits VOC emissions from the use of agricultural and commercial structural pesticides in the SJV to 18.1 tons per day (tpd) and commits CDPR to implement restrictions on non-fumigant pesticides in the SJV by 2014.

3. August 2, 2011 submittal of the following CDPR regulations that revised in part and added to the October 12, 2009 submittal: [1]

- 3 CCR sections 6448.1, 6449.1, and 6450.1 pertaining to fumigation method restrictions.
- Portions of 3 CCR sections 6452.2 and 6452.3 pertaining to field fumigation limits and allowances in the Ventura County ozone nonattainment area.
- 3 CCR section 6452.4 pertaining to the annual VOC emissions inventory report.
- 3 CCR section 6626 pertaining to pesticide use reports.

EPA proposed to approve these submittals as revisions to the California SIP on April 24, 2012 at 77 FR 24441. A detailed discussion of these submitted revisions, the Clean Air Act (CAA) and EPA requirements applicable to them, and our evaluation can be found in the proposed rule and the technical support document (TSD) for this final action.[2] In this final rule, EPA is approving these revisions to the California SIP based on our conclusion that they comply with applicable CAA and regulatory requirements for SIP revisions. We are also finding that the fumigant regulations meet the CAA section 182(b)(2) requirement to provide for reasonably available control technology on the application of fumigants in the SJV.

In the April 24, 2012 proposal, EPA also provided its preliminary response to the remand by the Ninth Circuit Court of Appeals in *Association of Irritated Residents* v. *EPA,* 632 F.3d 584 (9th Cir. 2011), revised January 27, 2012 (*AIR*). This remand required EPA to evaluate the California SIP Pesticide Element for enforceability under the CAA. See 77 FR 24441, 24447. In this action, we are finalizing that response without change.

Lastly, in our April 24, 2012 proposed rule, we referred to another Ninth

[1] As part of this submittal, CARB also submitted 3 CCR section 6400 (Restricted Materials), 6446 (Methyl Iodide Field—General Requirements) and section 6446.1 (Methyl Iodide Field Fumigation Methods) and methyl-iodide related portions of provisions 6452.2(a)(4)(Annual Volatile Organic Compound Emissions Inventory Report) and 6624(f) (Pesticide Use Records). We are deferring action on these provisions due to California's cancellation, effective March 21, 2012, of the registration of all products containing the active ingredient methyl iodide.

[2] Air Division, EPA Region 9; Technical Support Document—Final Rule Approval of Revisions to the Pesticide Element of the California State Implementation Plan; August 14, 2012. The TSD can be found in the docket for this rulemaking.

Circuit petition for review, *El Comite Para El Bienestar De Earlimart* v. *EPA* (No. 08–74340) (''*El Comité*''). 77 FR 24441 at 24448. In *El Comité,* various environmental and community groups challenged EPA's 1997 approval (62 FR 1150, Jan. 8, 1997) of the 1994 SIP for the 1-hour ozone standard for various California nonattainment areas (''1994 California Ozone SIP''), which included approval of the California SIP Pesticide Element, on the basis of the same 2008 Ninth Circuit decision, *El Comité Para El Bienestar De Earlimart* v. *Warmerdam,* 539 F.3d 1062) (''*Warmerdam*''), that was the basis for the remand in *Association of Irritated Residents.* At the time of our April 24, 2012 proposed rule, the Ninth Circuit had not issued its decision in *El Comité.*

Since then, the Ninth Circuit has issued a remand order to EPA in *El Comité* to reconsider its approval of the 1994 California Ozone SIP in light of the *Warmerdam* decision, as required by the remand in *Association of Irritated Residents.*[3] The remands in both *Association of Irritated Residents* and *El Comité* necessitate the same evaluation (i.e., for CAA enforceability) for the same portion of the California SIP (i.e., the California SIP Pesticide Element). Thus, our decision not to rescind or amend our 2009 re-approval of the California SIP Pesticide Element, in light of today's action approving the CDPR's revised SIP commitment for the San Joaquin Valley and fumigant regulations, finalizes not only our response to the remand in *Association of Irritated Residents,* but it also finalizes our response to the remand in *El Comité.*

II. Responses to Public Comments on the Proposed Action

A. Comments Received on the Proposed Action

EPA provided the public an opportunity to comment on its proposal to approve the revisions to the California SIP Pesticide Element for 30 days following the proposal's April 24, 2012 publication in the **Federal Register**. We received one comment letter on the proposed approval. This letter was submitted by the Center on Race, Poverty and the Environment on behalf of itself and 41 California environmental and community organizations (collectively ''El Comité''). See letter, Brent Newell, General Counsel, Center on Race, Poverty & the Environment, May 24, 2012. We summarize our response to El Comité's main comments below. Our complete responses to all comments received can be found in section III of the TSD. A copy of the comment letter and its attachments can be found in the docket for this rule.

B. Enforceability of CDPR's Revised SIP Commitment for San Joaquin Valley

Comment: El Comité argues that CDPR's revised SIP commitment to limit pesticide VOC emissions in the SJV to no more than 18.1 tpd is not enforceable because citizens may not enforce the manner in which the Department calculates the baseline inventory and subsequent years' inventories as a means to challenge a failure to adopt regulations or otherwise to limit pesticide VOC emissions in the SJV. They (El Comité) also argue that including the inventory calculation procedures in the SIP would not make the revised commitment enforceable.

Response: Except for the analysis required by CAA section 110(l), the SJV baseline (that is, the 1990 baseline used to calculate the required level of emissions reductions) is no longer at issue now that the State has fixed the maximum level of pesticide VOC emissions allowed in the SJV at a fixed 18.1 tons per day (tpd).[4] Once this limitation is incorporated into the SIP, the 1990 baseline inventory will be of only historical interest and neither it nor the calculation procedures used for it need to be enforceable. Therefore, in addressing El Comité's comments, we will focus on the enforceability of the calculation procedures for the subsequent years' inventories.

The ''emissions inventories'' required by both the revised SIP commitment for the SJV and the fumigant regulations should not be confused with the emissions inventories that are required by specific sections of the CAA, such as sections 172(c)(3) and 182(a)(1). They are not the same in either scope or purpose. CAA section 172(c)(3) requires SIPs to ''include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such [nonattainment] area. * * *'' The purpose of the comprehensive inventories required by this and similar CAA sections is to provide the basis for, among other things, the demonstrations of attainment and progress toward attainment required, for example, by CAA sections 182(c)(2)(A), 182(b)(1), and 182(c)(2)(B). Emissions inventories submitted to meet the CAA's specific inventory requirements are intended to describe but not control emissions from sources and source categories in the inventory and thus are not enforceable emission limitations as defined by CAA section 302(k).

In contrast, the ''emissions inventory'' called for in the revised SIP commitment and fumigant regulations is not a specific requirement of the CAA. It is instead an emissions estimation for a single emissions source—pesticide usage in the SJV—for the sole purpose of ''evaluat[ing] compliance with the 1994 SIP pesticide element for SJV.'' Revised SIP commitment for the SJV, p. 2. Together with the calculation methodology in the Neal memorandum,[5] the annual inventory requirement in 3 CCR section 6452.4(a)(1), and the reporting and recordkeeping requirements in sections 6624 and 6626, it is the means for monitoring compliance of this emissions source (pesticide usage in the SJV) with its applicable emission limit of not more than 18.1 tons of VOC per day.

Under the CAA and EPA regulations, a wide range of data and means of collecting data qualify as methods to monitor compliance. CDPR's procedures for monitoring compliance with the 18.1 tpd emission limit for VOC emissions from pesticides in the SJV fall squarely within this range. See, for example, 40 CFR 64.1 (defining compliance monitoring to include emission estimation and calculation procedures).

EPA considers the compliance monitoring associated with an emission limitation to be part of that limitation and, once incorporated into the SIP, enforceable under CAA sections 113 and 304. Therefore, including the inventory calculation procedures along with the requirements for an annual emissions inventory report and recordkeeping and reporting by pesticide users (which collectively constitute the compliance monitoring procedures for the 18.1 tpd emission limit), in the SIP will make CDPR's revised commitment for the SJV fully enforceable under CAA sections 113 and 304.

We also note that citizens seeking to enforce the revised commitment for the SJV under CAA section 304 are not

[3] The Ninth Circuit issued its remand order in *El Comité* on dated July 2, 2012.

[4] Fixed, that is, without the State first seeking and EPA approving through notice and comment rulemaking a revision to the SIP. To be approved, such a SIP revision would need to meet all applicable CAA requirements and not be barred under the section 110(l) non-interference provisions.

[5] The Neal memorandum is the memorandum from Rosemary Neal, Ph.D., CDPR to Randy Segawa, CDPR, November 5, 2008; Subject: Update to the Pesticide Volatile Organic Inventory. Estimated Emissions 1990–2006, and Preliminary Estimates for 2007. This memorandum is being included in the SIP in this action.

restricted to using CDPR's inventory procedures or CDPR-generated inventories to demonstrate a violation. Under the CAA and EPA regulations, citizens may use any credible evidence of violation to enforce a SIP-approved emission limitation under CAA section 304. See CAA section 113, 40 CFR 51.212(c) and 40 CFR 52.12 and 52.30.

Comment: El Comité comments that EPA proposes to find that the revised SIP commitment for the SJV is enforceable based on the Neal memorandum, citing to the proposed rule at 77 FR 24441, 24444. It then claims that EPA contradicts itself by stating the SIP revision is unenforceable because it does not commit to specific measures to ensure that the 18.1 tpd limit is not exceeded, citing to the proposed rule at 77 FR 24441, 24450.

Response: We did not propose to find that the revised commitment for the SJV is enforceable based solely on the Neal memorandum. In the proposed rule, we cite not only to the Neal memorandum but also to several other provisions in CDPR's submitted regulations [6] and to the fumigant application method regulations to find that the 18.1 tpd emission limit for the SJV is enforceable:

> These [compliance monitoring] provisions are clear and adequate in combination with the fumigant regulations to ensure the pesticide VOC limit for the SJV is enforceable as required by CAA section 110(a)(2)(A).

77 FR 24441, 24444.

This statement is consistent with the one later in the proposed rule that El Comité claims contradicts it:

> Considered in isolation, the revised commitment for San Joaquin Valley changes the form of the commitment in the 1994 Pesticide Element for the SJV but does not represent an enforceable measure for SIP purposes. However, when viewed in light of the CDPR's regulations, the combination of the commitment and fumigant regulations does meet the minimum requirements for enforceability of SIP measures and reasonably ensures that the 12 percent emissions reduction target from the 1994 Pesticide Element would be achieved in San Joaquin Valley.

77 FR 24441, 24450.

Comment: El Comité argues that EPA's proposal to approve the revised SIP commitment for SJV as enforceable conflicts with the Ninth Circuit's decision in *Warmerdam.* They assert that in this decision, the Ninth Circuit did not allow citizens to ''bootstrap'' arguments of inventory manipulation to enforce a commitment to adopt regulations, citing *Warmerdam* at 1072–73. El Comité argues that the revised SIP commitment is a discretionary commitment and that the CAA does not allow such discretionary commitments.

Response: Our finding that the revised commitment for SJV is enforceable does not conflict with *Warmerdam.* In *Warmerdam,* the Ninth Circuit ruled that the baseline inventory could not be turned into an enforceable emission limitation by ''bootstrapping it to the commitment to adopt regulations.''

As explained above, except for the analysis required by CAA section 110(l), the SJV baseline (that is, the 1990 baseline used to calculate the required level of emissions reductions) no longer has a purpose now that the State has set the maximum level of pesticide VOC emissions allowed in the SJV at a fixed 18.1 tpd. Once that limitation is incorporated into the SIP, the 1990 baseline inventory will be of historical interest only and neither it nor the calculation procedures used for it need to be enforceable in the future. We note that this will also be true for the 1990 baseline inventory for Ventura County once we approve the fumigant regulations.

CDPR's revised SIP commitment for the SJV is not a discretionary commitment. As discussed above and in the proposed rule, the commitment (including the fixed 18.1 tpd limitation on pesticide VOC emissions in the SJV), the monitoring procedures necessary to determine compliance with it, and the fumigant regulations combine to be a fully enforceable program under the CAA once approved into the SIP. We note again that citizens may use any credible evidence to enforce the commitment and are not restricted to using inventories generated by the State.

Comment: El Comité argues that the revised commitment by CDPR to manage pesticides emissions in the SJV is unenforceable because it is impractical to determine whether emissions levels are exceeded because inventories are only available two years after the fact. They further argue that the emission controls should constantly limit pesticide VOC emissions and ''not lag two years behind.'' To support these arguments, El Comité cites to the discussion of the fundamental principles for SIPs and control strategies found in the General Preamble at 13567–13568,[7] noting in particular the second principle relating to enforceable measures. They also cite to the General Preamble's discussion of enforceability of SIP regulations at 13502.

Response: El Comité confuses two requirements: the requirement that an emission limitation assures continuous emissions reductions and the requirement for a practical means of determining compliance with that emission limitation. The cited sections of the General Preamble all address the latter requirement. We have reviewed CDPR's revised SIP commitment for the SJV against the criteria for enforceability given in the General Preamble and determined that it meets them. See TSD, section III.B., Response B–6.

As to the requirement for continuous emissions reductions, we cannot consider the 18.1 tpd emission limit for the SJV as unrelated to the fumigant regulations. Not only do the fumigant regulations contain the reporting and recordkeeping requirements necessary for monitoring compliance with the limit, they also contain the principal control requirements for maintaining pesticide VOC emissions in the SJV under that limit. CDPR considers the 1.5 tpd in emissions reductions from the application method restrictions in the fumigant regulations to be sufficient to meet the SJV limit in a typical year.[8] These restrictions apply throughout the May 1 to October 30 regulatory season and thus provide for continuous emissions reductions during that season.

As a practical matter, CDPR produces the inventories as soon as practicable given the size and complexity of the source at hand (pesticide usage in the SJV), the sheer amount of data that must be evaluated, and the requirement in 3 CCR section 6452.4(b) that the public be given 45 days to comment on the draft inventories.

C. Approval of the Revised Pesticide Element for SJV Under CAA Section 110(I)

Comment: El Comité comments that the commitment in the existing 1994 Pesticide Element is both a tonnage commitment in an areas' attainment year and a percentage commitment: 13

[6] These other provisions included the annual emissions inventory requirements in section 6452.4; the emissions inventory calculation methodology in section 6452.4(a)(1) and recordkeeping and reporting requirements for pesticide users in sections 6624 and 6626. We are approving each of these provisions into the California SIP.

[7] The ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' published at 57 FR 13498 on April 16, 1992, describes EPA's preliminary view on how we would interpret various SIP planning provisions in title I of the CAA as amended in 1990, including those planning provisions applicable to the 1-hour ozone national ambient air quality standard (NAAQS). EPA continues to rely on certain guidance in the General Preamble to implement the 8-hour ozone NAAQS under title I.

[8] CDPR, ''Staff Report on the Department of Pesticide Regulation's Proposed SIP Commitment for San Joaquin Valley,'' (''CDPR staff report''), p. 4.

tpd reduction by 1999 and 20 percent reduction from 1990 by 2005 in the SJV.

Response: We agree that the commitment in the 1994 Pesticide Element [9] is both a tonnage commitment and a percentage commitment, and we agree that the ton per day reduction called for in the Element is 13 tpd. Where EPA disagrees with El Comité is that EPA has concluded that the percentage commitment corresponds to the tonnage commitment in that they both relate directly to the attainment needs of SJV in achieving the 1-hour ozone standard by 1999 as anticipated by California in 1994 and 1996 in developing its Ozone SIP, and approved by EPA in 1997 when EPA approved that plan.

We explained the basis for our conclusion in this regard on pages 24446–24447 of the proposed rule. First, we note that the Boyd Letter, while clarifying certain other aspects of the Pesticide Element, introduced an ambiguity in the percentage commitment for SJV by stating, in the same paragraph, that the commitment in each SIP area (which in this context presumably includes SJV) is for a 20 percent reduction from 1990 to 2005 and that the credit taken in SJV is 12 percent.

To resolve this ambiguity, EPA is taking into account the words of the 1994 Pesticide Element itself and the words of EPA's final rule approving the 1994 California Ozone SIP, including this Element.

First, the 1994 Pesticide SIP committed CDPR to a ''maximum of 20 percent'' reduction in pesticide VOC emissions from 1990 baseline levels in areas ''which reference VOC reductions'' from the element in their plans. See 1994 Pesticide SIP, p.1. In the case of SJV, the ''plan'' that references VOC reductions from the Pesticide Element is the attainment demonstration plan for SJV in the 1994 California Ozone SIP, and it took credit for a 12 percent (not a 20 percent) reduction in baseline emissions from 1990.

Second, the Pesticide SIP states: ''[t]he plan offers the flexibility to achieve reductions of less than 20 percent by the year 2005 in air districts if less pesticide VOC emission reductions are needed.'' *Id.* At the time when the 1994 California Ozone SIP was adopted and approved, the applicable attainment date for SJV was 1999, and the 1994 California Ozone SIP, as ultimately approved, took credit for only a 12 percent reduction in pesticide VOC emission in that area because that was all that the attainment demonstration at the time called for from that source category. By its terms, the 1994 Pesticide SIP was developed specifically to be flexible enough to provide for a less-than-20 percent reduction in areas that did not need the full 20 percent to meet attainment needs.

Third, in EPA's final rule approving the 1994 California Ozone SIP (and the related 1994 Pesticide Element), we summarized our understanding of the emissions reduction commitments in the Pesticide Element as follows: ''As described in the SIP, California has committed to adopt and submit to U.S. EPA by June 15, 1997, any regulations necessary to reduce VOC emissions from agricultural and commercial structural pesticides by 20 percent of the 1990 base year emissions in the attainment years for Sacramento, Ventura, Southeast Desert, and the South Coast, and by 12 percent in 1999 for the San Joaquin Valley.'' See 62 FR at 1150, at 1170 (January 8, 1997). Therefore, in view of the overall design and purpose of the 1994 Pesticide Element and EPA's understanding of the commitments in the Element at the time of the approval of the Element into the California SIP, we have concluded that the approved Pesticide Element includes a 12 percent emissions reduction commitment in SJV, not a 20 percent emissions reduction commitment.

Comment: El Comité comments that the plain language of the 1994 Pesticide SIP and the [Boyd] Letter together commit to achieve a 20 percent reduction of pesticide VOC from 1990 levels by 2005, and EPA's approval of the revised SIP commitment for SJV will violate section 110(l) because CDPR and CARB have failed to demonstrate the change in the commitment to 12 percent will not interfere with attainment, reasonable further progress (RFP), or any other requirements of the CAA. They also comment that EPA's finding that the existing commitment is for 12 percent (rather than 20 percent) and that, as a result, approval of the revised SIP commitment for SJV would not violate section 110(l), has no basis in the plain language of the SIP, and is contrary to the Ninth Circuit's decision in *Safe Air for Everyone* v. *EPA,* 488 F.3d 1088 (9th Cir. 2007).

Response: As discussed above, EPA believes that the SIP commitment in the 1994 Pesticide SIP (as modified by the Boyd Letter) for SJV is ambiguous and thus subject to interpretation. We have interpreted the 1994 Pesticide SIP and Boyd Letter, in light of the language of both and do not find any one sentence of either document to be a definitive statement as to the commitment in SJV. Rather, in light of CDPR's stated purposes and design of the 1994 Pesticide Element itself, and the reliance on it by California in demonstrating attainment of the SJV by 1999 with respect to the 1-hour ozone standard, we have concluded that, consistent with EPA's language in approving the 1994 Pesticide Element, that the commitment is a 12 percent commitment in SJV. Thus, we do not view our approval of the revised SIP commitment for SJV as a relaxation in the California SIP because it would result in the same emissions reductions as would result under the existing approved California SIP Pesticide Element.

Our conclusion in this regard is not contrary to the Ninth Circuit's decision in the *Safe Air* case cited by El Comité. As noted by El Comité, in *Safe Air,* the Ninth Circuit held that the content of a SIP is based on its ''plain meaning when such a meaning is apparent, not absurd, and not contradicted by the manifest intent of EPA, as expressed in the promulgating documents available to the public.'' *Safe Air for Everyone* v. *EPA,* 488 F.3d 1088, at 1100 (9th Cir. 2007). In this instance, the meaning of the 1994 Pesticide Element's percent reduction SIP commitment for SJV is not ''plain,'' and even if it were, it is ''contradicted by the manifest intent of EPA, as expressed in the promulgating document available to the public,'' i.e., EPA's 1997 final rule approving the 1994 Pesticide Element into the California SIP. Thus, EPA's interpretation of the Element's percent reduction SIP commitment for SJV in the context of this rulemaking is consistent with the Ninth Circuit's decision in *Safe Air* and consistent with EPA's stated interpretation in 1997 of this same commitment.

As to CAA section 110(l), relative to California's and EPA's interpretation of the Pesticide Element to require a 12 percent reduction in pesticide VOC emissions in (rather than 20 percent) from a 1990 baseline, we have concluded that the revised SIP

[9] As these terms are used in this document, the ''1994 Pesticide SIP'' is the *State Implementation Plan for Agricultural and Commercial Structural Pesticides,* November 15, 1994 which was submitted as part of the *1994 California State Implementation Plan for Ozone* (''1994 California Ozone SIP''). The 1994 Pesticide SIP is incorporated at 40 CFR 52.220(c)(204)(i)(A)(6). The 1994 California Ozone SIP was approved at 62 FR 1150 (January 8, 1997). The ''Boyd Letter'' is the letter from James Boyd, CARB's Executive Officer to David Howekamp, Air and Toxics Division Director, EPA Region 9, June 13, 1996. This letter and its appendices are incorporated at 40 CFR 52.220(c) (236). The 1994 Pesticide SIP and the Boyd Letter collectively constitute the ''1994 Pesticide Element.''

commitment for SJV would result in, at a minimum, the same emissions reductions that are currently required under the approved SIP, and neither the approved 8-hour ozone plan nor the approved $PM_{2.5}$ plan for SJV rely on emissions reductions due to the Pesticide Element. As such, we have also concluded, as we did for the proposed rule, that our approvals of the fumigant regulations and revised SIP commitment for SJV will not interfere with attainment and RFP or any other applicable requirement of the CAA and thus comply with the requirements of CAA section 110(l). See 77 FR 24441, at 24447.

Comment: El Comité comments that an approval of the revised SIP revision would violate CAA section 110(l) because neither CDPR nor CARB has demonstrated that the SIP revision does not backslide when it changes the manner by which the 1990 baseline inventory is calculated. They contend that the 1994 Pesticide Element committed CDPR to using the 1991 Pesticide Use Report (PUR) data to estimate the 1990 baseline inventory because ''such data is more accurate than 1990 PUR data.''

Response: CAA section 110(l) does not prohibit any backsliding and does not bar approval of a SIP revision based solely on a state's failure to accompany the revision with a demonstration of non-interference. Section 110(l) only prohibits backsliding that would interfere with any applicable requirement of the CAA.

As stated above, we have concluded that the emissions reduction commitment in SJV under the existing SIP is 12 percent from 1990 levels, not 20 percent, and thus, the establishment of a 18.1 tpd limit (which represents a 12 percent reduction from 1990) through this SIP revision would result in the same emissions reductions from pesticide VOC emissions as required under the existing SIP.

We reviewed the language of the existing Pesticide SIP itself to see whether it could be reasonably interpreted to allow for use of 1990 PUR data, rather than 1991 PUR data, to determine whether the establishment of the 18.1 tpd limit (determined using 1990 PUR data) represents a revision to the SIP that would result in an emissions impact. If the existing SIP could be reasonably interpreted to allow for use of 1990 PUR data, then no emission impact would result.

The 1994 Pesticide SIP requires that a 1990 baseline inventory be used to determine the level of emissions reductions needed: ''[t]his plan is designed to reduce volatile organic compound (VOC) emissions from agricultural and commercial structural pesticide applications by a maximum of 20 percent from the 1990 baseline * * *.'' p. 1. The 1994 Pesticide SIP is clear that this 1990 baseline inventory is to represent conditions in 1990:

- ''The base year inventory will be created from the 1991 Pesticide Use Report and then adjusted by a factor to represent the 1990 base year.'' p. 5;
- ''In cooperation with DPR, [CARB] will develop a baseline inventory of estimated 1990 pesticidal VOC emissions based on 1991 pesticide use data, adjusted to represent the 1990 base year.'' p. 6;
- ''The baseline inventory will be calculated by summing the estimated 1990 emissions of each agricultural and commercial structural use pesticide.'' p. 6;
- ''[Estimated 1990 e]missions will be calculated by multiplying the VOC Emissions Factor value for each product by the adjusted use of that product in 1990.'' p. 5.

The 1994 Pesticide SIP also emphasizes the use of the best available information to calculate the inventory, including in the rationale for using the 1991 PUR data in lieu of the 1990 data. It also allows (on page 6) for ''further adjust[ments] by additional VOC Emission Factors if additional information becomes available.'' While this statement applies to VOC emission factors, it would be counter-intuitive to limit adjustments to just this type of data if the primary interest is to produce the best possible assessment of pesticide VOC emissions in the 1990 base year.

In the 1994 Pesticide SIP (page 5), CDPR stated it would use the 1991 PUR data (backcasted to represent 1990) as the starting point for calculating the 1990 baseline inventory because ''[i]t is believed that the 1991 pesticide use report would be a more accurate source to determine 1990 pesticidal VOC emissions.'' CDPR did not concede that the 1991 PUR data was more accurate and thus left open the option to use 1990 PUR data to calculate the 1990 baseline inventory if that data was determined to be more or similarly accurate. CDPR would later determine that the data for the two years was in fact of similar accuracy. This determination weakens any reading that the SIP mandates the use of the 1991 PUR data, given the SIP's emphasis on the 1990 baseline inventory reflecting 1990 conditions and on the use of the best available data.

We also observe that the use of unbackcasted 1991 PUR data to calculate the baseline inventory results in a 1991 baseline inventory. Using a 1991 baseline inventory to set SJV's (or any area's) pesticide VOC emission limit, as El Comité advocates, would conflict with the plain language of the 1994 Pesticide SIP, which indisputably requires that these emission limits be set from a 1990 baseline.

For these reasons, we conclude that the existing Pesticide Element *does* allow for the use of 1990 PUR data to determine 1990 baseline emissions, and thus, the establishment of an 18.1 tpd emission limit in the Valley that derives from 1990 PUR does not represent a revision to the SIP that results in higher emissions than would be allowed under the existing Pesticide Element.

For the purposes of this response, we have also investigated further the possibility that unbackcasted 1991 PUR data is required under the existing SIP and that use of 1990 PUR data would result in a higher limit than one resulting from the use of unbackcasted 1991 PUR data to establish the baseline emissions. To do this, we used information from the CDPR staff report on the revised SIP commitment for SJV to isolate the potential emissions impact of using 1990 PUR data rather than unbackcasted 1991 PUR data and calculated the difference to be 0.7 tpd.[10] In other words, if unbackcasted 1991 PUR data were required to be used in connection with establishing baseline VOC emissions from agricultural and commercial structural applications, then, based on data in the CDPR staff report, the corresponding limit in SJV (ensuring a 12 percent reduction) would be 17.4 tpd, 0.7 tpd lower than the 18.1 tpd limit developed using 1990 PUR data.

Alternatively, based on this analysis, we find that, even if the existing SIP required the use of unbackcasted 1991 PUR data to calculate the baseline and the use of the 1990 PUR data represented a revision to the SIP, we find that the potential emissions impact (0.7 ton per day of VOC higher limit) of using 1990 PUR data instead would not interfere with RFP or attainment of the NAAQS, for the following reasons.[11] As to ozone, we note that the approved 1997 8-hour ozone plan for SJV shows how the plan provides for VOC and NO_X reductions that surpass RFP requirements and provides for

[10] See CDPR staff report, p. 4. The 0.7 tpd is calculated as 88 percent of 20.6 tpd minus 88 percent of 19.8 tpd. The value of 20.6 tpd represents 1990 baseline emissions estimated using 1990 PUR data and 19.8 tpd represents 1991 baseline emissions estimated using 1991 PUR data.

[11] For purposes of comparison, VOC emissions in SJV are expected to decline to 339 tpd by 2023 under the EPA-approved 2007 Ozone Plan. See 76 FR 57846, 57850 (September 16, 2011).

expeditious attainment even without considering any VOC reductions from pesticides. See 76 FR 57846, 57861 and 57858 (September 16, 2011) and 77 FR 12652 (March 1, 2012). The SJV area has recently been designated as extreme nonattainment for the 2008 8-hour ozone NAAQS, but the nonattainment plan for that standard is not due until 2015. See 77 FR 30088 (May 21, 2012) and 40 CFR 51.908.

As to particulate matter (PM), we reiterate our observation from our proposed rule (at page 24447) that EPA has determined that VOC controls are not required for PM control in the SJV. See 72 FR 20586, 20589 (April 25, 2007); 69 FR 30006, 30007 (May 26, 2004); and 76 FR 69896, 69924 (November 9, 2011). In addition, we note that while the EPA-approved PM plans do not address the 2006 $PM_{2.5}$ NAAQS for which the SJV has also been designated as ''nonattainment,'' 74 FR 58688 (November 13, 2009), the nonattainment plan for the 2006 $PM_{2.5}$ NAAQS is not due until December 2012.

Comment: El Comité asserts that because the 1994 Pesticide Element calls for year-round reductions, approval of the revisions would violate CAA section 110(l) because neither CDPR nor CARB has demonstrated that the SIP revision does not backslide when the SIP revision only calls for seasonal (May through October) controls.

Response: CAA section 110(l) does not prohibit any backsliding and does not bar approval of a SIP revision based solely on a state's failure to accompany the revision with a demonstration of non-interference. Section 110(l) only prohibits backsliding that would interfere with any applicable requirement of the CAA.

El Comité provides no support for their position that the 1994 Pesticide Element requires year-round reductions. They do not cite to specific language in the Element and make no arguments as to why it should be interpreted to require year-around reductions. In our review of the 1994 Pesticide Element, we find nothing in it that directly addresses the issue of year around versus seasonal controls. Even with the most generous reading, the 1994 Element is at best ambiguous on the subject. This issue is also not directly addressed in EPA's rulemakings on the 1994 Ozone Plan. For these reasons, we have looked to California's stated purpose for including the 1994 Pesticide Element in its SIP and how the State relied on the emissions reductions from the Element to discern the best interpretation of its requirements regarding seasonality.

California submitted the 1994 Pesticide Element as part of its comprehensive plan to meet the 1-hour ozone standard and included reductions from this measure in the attainment demonstrations for the South Coast, Southeast Desert, Ventura County, SJV, and Sacramento nonattainment areas. From the language of the 1994 Pesticide Element itself, the reason for including a measure to reduce pesticide VOC emissions in the SIP was to address pesticide's contribution to ozone formation. See 1994 Pesticide SIP, p. 1.

Ozone is a seasonal pollutant with unhealthy levels being recorded mainly in the summer months when conditions are most conducive to its formation. The seasonality of ozone standard exceedances is reflected in EPA's policies and regulations that require ozone SIPs to include summer season inventories. See, for example, EPA's General Preamble at 57 FR 13498, 13502.

We described California's definition of its ''summer season'' (that is, its ozone season) in our proposed approval of the 1994 Ozone SIP as being from May through October. See 61 FR 10920, 10937. Consistent with the summer season being the period of concern for ozone, all the emissions inventories, the rate of progress demonstrations, and the attainment demonstrations in the 1994 Ozone SIP are expressed in tons per summer day. See, for example, 61 FR 10920, 10943–44. Estimates of emissions reductions from measures are also expressed in tons per summer day.

Taken together, these facts argue that the 1994 Pesticide Element as approved can be reasonably interpreted to apply only to the ozone season. As we noted above, this ozone season was defined by California in its 1994 Ozone SIP as being from May to October, the exact period that the fumigant regulations and the revised pesticide commitment for SJV cover. We, therefore, find that approval of these SIP revisions does not violate CAA section 110(l) on the basis that they provide for seasonal controls only.

D. Enforceability of the Fumigant Regulations

Comment: El Comité alleges that the fumigant regulations are not enforceable because they do not guarantee that citizens and EPA have access to data to evaluate pesticide users' compliance with the fumigant application methods or permits issued by County Agricultural Commissioners (CAC).

Response: Under the fumigant regulations, applicators (farm operators or pest control businesses) are required to limit their use of fumigant-specific application methods during May 1-October 31 to those methods specified in the regulations. An applicator demonstrates compliance with the regulations by reporting the details of each fumigant application (e.g. the permittee/property operator, operator ID/permit number, acres planted, acres treated, application method, crop, date, time, and location) to the CAC, which in turn, provides the data to CDPR. As El Comité acknowledges, the public can obtain PUR data by making a California Public Records Act (CPRA) request to the CAC or CDPR. In addition, CDPR makes the PUR data available electronically to the public for free at the California Pesticide Information Portal (CalPIP) Web site at *http://calpip.cdpr.ca.gov/main.cfm.* The fact that the public has free online access to individual and summary PUR data enhances enforceability as compared to other SIP regulations, for which the data may be only accessible through a CPRA request.

We note again that citizens are not limited to enforcing based solely on records reported by sources. Under applicable CAA and regulatory provisions, any credible evidence of violation may be used. Such credible evidence might include, for example, photographs of a fumigant application taken from a public road.

Comment: El Comité states that the two-year record retention time in 3 CCR section 6624(g) severely undermines enforceability of the fumigant regulations because PUR data may no longer be available by the time CDPR publishes its Annual Emissions Inventory Report, up to two years later.

Response: The PUR data used to determine compliance with the fumigant regulations and to support enforcement is available to regulators and the public well before the two-year user retention provision ends. The fumigant regulations require the property operator to submit a PUR to the CAC by the 10th of the month following each fumigant application. Pest control businesses must submit the PUR to the CAC within 7 days of the application. See 3 CCR section 6626(a) and (b). The public can request PUR data from the CAC as soon as the PUR is submitted. The CAC must submit to CDPR a copy of each PUR received, and any other relevant information required by CDPR, within one calendar month after the CAC receives it. See California Food and Agricultural Code (CFAC) section 14012(b). CDPR publishes the PUR data online approximately one year after the

growing season ends.[12] The PUR data, which is an input to the Annual Emissions Inventory Report, is not destroyed after two years, but rather it is retained and available on an on-going basis in CDPR's publicly-available, free and online PUR database at *http://calpip.cdpr.ca.gov/main.cfm.*

Comment: El Comité states that there are no monitoring provisions that would allow for an evaluation of whether the pesticide user met the emissions reductions specified for each fumigant application method or whether the user complied with a fumigant VOC emission limit.

Response: No such monitoring provisions are needed because the fumigant regulations do not require that an individual pesticide user meet either specific emissions reductions or the fumigant emission limit. Rather, they prohibit the use of certain fumigant application methods during the peak ozone season. In this way the fumigant regulations are similar to other regulations that require (or prohibit) use of certain control measures or work/management practices but do not otherwise require the source to meet specific numerical emission limits.[13] EPA has approved many regulations that require the use of specific control methods, rather than a specific emission limit. For example, SIP regulations require gasoline stations to install pre-approved vapor recovery devices but do not concurrently require them to meet an emission limit.[14] SIP rules for confined animal feeding operations, open burning, and agricultural fugitive dust are examples of regulations that require the use of specific management practices rather than compliance with a specific emission limit, similar to CDPR's pesticide regulations.[15]

Under the SIP, *fumigant* VOC emission limits will apply only in Ventura County. 3 CCR section 6452.2. Ventura County's overall pesticide VOC emission limit is monitored through the annual emissions inventory that is calculated by CDPR and not by individual pesticide users. Section 6452.4(a)(2). If pesticide VOC emissions in a given year approached or exceeded the limit, then CDPR and Ventura County CAC are required to implement a fumigant limit/allowance system and to condition or deny restricted use permits to limit fumigant VOC emissions until overall pesticide VOC emissions, as reported in the annual emissions inventory, fall back below the limit for two consecutive years. *Id.*

Comment: El Comité states that the regulations are not federally enforceable because they fail to require sources to comply with new permit conditions should the fumigant VOC emission limit and allowance system be triggered under 3 CCR section 6452.2.

Response: The requirement to condition permits to comply with a fumigant VOC emission limit is only applicable to Ventura County under the SIP. Section 6452.2(e) prohibits a person from applying a field fumigant during the ozone period once the fumigant VOC emission limit is established unless their restricted material permit includes a field fumigant emission allowance or the notice of intent (NOI) to apply a fumigant is approved in writing. In addition, section 6452.2(c) requires that if Ventura County's fumigant VOC limit is triggered, the CAC must condition or deny permits in such a manner to assure that the fumigant VOC emission limit is not exceeded. These sections, which are being incorporated into the SIP, are sufficient for federal enforceability.

Comment: El Comité argues that 3 CCR section 6452(b) provides for improper director's discretion for alternative methods, noting, in particular, the lack of explicit and replicable procedures for determining whether the scientific data demonstrates that the alternative method's emissions rates are no greater than other methods allowed under the regulations.

Response: EPA has determined that the director discretion in section 6452(b) is not a basis for disapproval given the restrictions placed on the CDPR Director's ability to approve alternative methods and given the limited history of regulating fumigant application methods to reduce VOC emissions. See TSD, section II.E.

EPA's general policy regarding director's discretion is stated in 52 FR 45109 (November 24, 1987). Provisions allowing for a degree of state director discretion may be considered appropriate if explicit and replicable procedures within the rule tightly define how the discretion will be exercised to assure equivalent emissions reductions.[16] Under section 6452(b), a request for approval of an alternative application method must be accompanied by scientific data documenting the VOC emissions reductions (section 6452(b)(1)) and no alternative method may be approved if its emission rate and the maximum emission rate are greater than those for any method already specified in the regulations for use in the area for that fumigant (section 6452(b)(1)(A) and (B)). Section 6452(c) also explicitly requires the CDPR Director to evaluate the submitted scientific data to determine whether: (1) The data and information provided are sufficient to estimate emissions; (2) the results are valid as indicated by the quality control data; and (3) the conditions studied represent agricultural fields fumigated. A notice of interim approval of an alternative method must be published on CDPR's Web site (section 6452(d)) and interim approvals expire after three years (section 6452(e)). In addition, we note that all pesticide users are required by law to follow the federal label, state regulations, and permit conditions at the county level (CFAC section 12973). These provisions appropriately limit the CDPR director's discretion.[17]

E. Pesticide Emissions Inventories

Comment: El Comité comments the Method Usage Fractions (MUF) for the 1991 and 2004 inventories do not have a factual foundation in the PUR. They also comment that the validity of the MUF for the 1991 inventory for all fumigants but 1,3-dichloropropene are not verifiable and that CDPR has not presented any evidence supporting its estimates of historical fumigant application methods, nor has it made public the details of the process by which this information was obtained.

Response: The PUR reports were not required to list the fumigation application method prior to 2008; therefore, it is not possible to base the MUF of the PUR prior to that year.[18] We

[12] Memorandum, Nancy Levin, EPA Region 9, to Docket EPA–R09–OAR–2012–0194, August 10, 2012, Subject: Summary of July 16, 2012 conference call between EPA and California Department of Pesticide Regulation.

[13] CAA section 302(k) defines the terms ''emission limitation'' and ''emission standard'' to include a design, equipment, work practice or operational standard.

[14] See, for example, SJVUAPCD Rule 4622 Gasoline Transfer Into Motor Vehicle Fuel Tanks (amended December 20, 2007), approved 74 FR 56120 (October 30, 2009).

[15] See, for example, SJVUAPCD Rule 4570 Confined Animal Facilities (amended October 21, 2010), approved 77 FR 2228 (January 17, 2012); Rule 4103 Open Burning (amended May 14, 2010), approved, 77 FR 214 (January 4, 2012); Rule 4550 Conservation Management Practices (amended August 19, 2004), approved 71 FR 7683 (February 14, 2006).

[16] EPA Region 9, Guidance Document for Correcting Common VOC & Other Rule Deficiencies, (a.k.a., Little Bluebook), August 21, 2001.

[17] We note that EPA has approved a limited number of other SIP rules addressing similar regulatory programs allowing for director's discretion to approve alternate methods of compliance, provided that emissions are no greater than other approved methods. See, for example, SJVUAPCD Rule 4550 Conservation Management Practices (amended August 19, 2004), Section 6.2.3.2; approved 71 FR 7683 (February 14, 2006).

[18] Usually there are several different types of application methods used for a particular fumigant in any particular NAA. Each method of use (e.g. drip, sprinkler, shank, tarp, etc.) represents a

note that the 1990, 1991 and 2004 inventories do not have any relevance to today's action.

CDPR has provided a detailed explanation of its process for determining the frequency of use of historical fumigant methods for the 1991 inventory as well as the 1990 inventory (which is the basis for calculating reductions) in the Barry memorandum.[19] Prior to 2008, the MUF were based on grower/applicator surveys, use data, expert opinion, and regulatory history. Since 2008, applicators have been required to report application methods on the PUR, so recent MUF calculations are based on empirical data. EPA has been presented with no evidence to dispute that CDPR used best available data to develop the MUF for the baseline inventory.

Comment: El Comité comments that CDPR's Application Method Adjustment Factors (AMAF) are based on unrepresentative field fumigation studies conducted in other states under cool soil conditions and therefore do not provide an accurate estimate of emissions from California fumigations conducted at high temperatures in the Central Valley during the peak ozone season from May to October. They also comment that studies conducted under worst-case scenarios have been excluded from the group of studies on which the fumigant application regulations are based.

Response: Similar comments were raised to CDPR during the comment periods prior to the adoption of the 2008 fumigant regulations and to CARB during the comment period prior to the adoption of the 2007 State Strategy (specifically on the revisions to the 1994 Pesticide Element for Ventura County that were included as Appendix H to the State Strategy). CDPR responded to these comments in the final Barry Memorandum (pp. 15–17) and in its response to comments on its proposed regulations.[20] CARB also provided responses.[21] Both stated that the studies included had been reviewed and accepted as sufficient to provide reliable data and were conducted under a variety of conditions and locations.

Comment: El Comité comments that (1) the field studies of AMAF have highly variable results even among similar studies and are therefore highly uncertain and that previous reviews have noted uncertainties in AMAF estimates and concluded that some AMAF proposed by CDPR were not conservative enough. They also comment that because the natural variability in flux rates (the rate at which the fumigant escapes from the soil) is large, a single study (or even several studies) will not provide an accurate estimate of actual emissions.

Response: CDPR responded to similar comments made during the 45-day comment period on the initial proposal of the fumigant regulations in July 2007. It agreed that flux rates vary and that the Department has chosen to average flux rates to get the most accurate picture of overall emissions. Their response, which is supported by CARB, is as follows:

> DPR agrees that the variability in flux rates (emissions) between applications is large. For fumigants and application methods with multiple studies, the standard deviations of the emissions are approximately 50 percent. DPR has chosen to use the average flux rates to estimate emissions for three reasons. First, the emissions inventory represents the aggregate emissions from all agricultural and structural pesticide applications within a region over several months. The average flux rates represent the most accurate estimate of aggregate emissions. Second, all pesticide applications included in DPR's inventory represent its most accurate and consistent estimate of emissions, for both the base year and subsequent years. Using a consistent method to estimate emissions is essential for making relative comparisons and determining compliance with the SIP commitments. Using the most accurate estimates for some applications and high-end estimates for other applications would skew the inventory and make relative comparisons unreliable. Third, even if DPR were to use high-end emission estimates, they would affect both current emissions and emissions for the 1991 base year. Estimates of the 1991 base year emissions are generally more uncertain, than current emissions. DPR would likely apply a larger uncertainty factor to the 1991 base year than current emissions, and the emissions reductions achieved would be larger than currently estimated using the average flux rates.

See CDPR, Rulemaking File For Regulations Filed and in Effect on January 8, 2008; Final Statement of Reasons, Attachment A: Summary of Comments Received During the 45-Day Comment Period and DPR's Response.

Therefore, we conclude that CDPR took a reasoned approach to establishing AMAF based on the available science.

F. Necessary Assurances Under CAA Section 110(a)(2)(e)

Comment: El Comité states that the fumigant regulations are unenforceable because they do not provide a funding mechanism, and because CDPR has not demonstrated under CAA section 110(a)(2)(E) that the state and CAC have adequate personnel, funding and authority to implement and enforce the regulations.

Response: We disagree that the fumigant regulations are unenforceable if they do not provide a mechanism to fund enforcement. Nothing in the CAA or EPA regulations require a SIP rule to include a rule-specific funding mechanism in order to be enforceable. If that were so, every SIP-approved rule would need to contain a specific funding mechanism before EPA could incorporate into SIP, which is not the case.

CAA section 110(a)(2)(e) requires states to provide ''necessary assurances that the State * * * will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan.'' CDPR has provided sufficient assurance that it has adequate funding (as well as personnel and authority) to implement the regulations.

CDPR funds CAC on an annual basis to conduct inspections and enforcement activities. Funding derives from an assessment on pesticide sales. CDPR collects 21 mill (or 2.1 cents) per dollar, of which approximately 7.6 mill is designated for CAC pesticide use inspection and enforcement activities (3 CCR section 6386; CFAC sections 12841 and 12841.3). In 2006 CDPR and the California Agricultural Commission and Sealers Association entered into a Memorandum of Understanding that explains the process for distributing funds.[22]

The CAC have conducted 3,154 field fumigant inspections since January 1, 2008.[23] In 2010–2011, CAC made 724 field fumigant inspections and 2,130 structural fumigation inspections

fraction of the total number of methods used and is referred to as the Method Use Fraction (MUF). The sum of all MUFs for any particular (NAA/fumigant AI) combination is one. See Rosemary Neal, Ph.D., Frank Spurlock, Ph.D., and Randy Segawa, California Department of Pesticide Regulation, ''Annual Report on Volatile Organic Compound Emissions from Pesticides: Emissions For 1990—2010,'' Revised, June, 2012 (''Revised 2010 Pesticide VOC Emissions Report''), p. 13.

[19] Memorandum, Terrell Barry, Ph.D., *et al.,* CDPR, to John Sanders, Ph.D., CDPR; ''Pesticide Volatile Organic Compound Emission Adjustments for Field Conditions and Estimated Volatile Organic Compound Reductions-Revised Estimates;'' September 29, 2007.

[20] See CDPR, Rulemaking File For Regulations Filed and in Effect on January 8, 2008; Final Statement of Reasons, Attachment A: Summary of Comments Received During the 45-Day Comment Period and DPR's Response.

[21] CARB, Environmental Analysis for the Proposed Revision to the Pesticide Commitment of the 1994 Ozone SIP for the Ventura County Nonattainment Area, Revised August 13, 2007 (''CARB August 2007 Environmental Analysis'').

[22] CDFA, Disbursement of Residual Mill Assessment Funds To Enhance Local Pesticide Enforcement Programs, May 2006, found at *http://www.cdfa.ca.gov/exec/county/documents/DISBURSMENT_OF_RESIDUAL_MILL_ASSESSMENT_FUNDS_TO_ENHANCE.pdf.*

[23] Email and attachment from Ken Everett, CDPR to Nancy Levin, EPA, August 1, 2008.

statewide.[24] In addition, CAC must conduct pre-application site evaluation inspections for at least 5 percent of all sites identified in permits or notices of intent (NOI) to apply pesticides for agricultural use (3 CCR section 6436). In 2010–2011, CAC's conducted a total of 7,941 pre-application inspections out of a total of 136,491 NOI,[25] or 5.8 percent of NOI reviewed.

Both CDPR and CAC enforcement authority is derived from State law and regulation. See CFAC section 14004; see also, CFAC section 2281 and 11501.5 and 3 CCR sections 6140 and 6128. Beyond its enforcement authorities, California law provides CDPR with the authority to place limitations on the quantity, area, and manner of application to reduce pesticide emissions through restricted materials permit conditions. See CFAC section 14006.5 and 3 CCR section 6412. Permits to use restricted materials are issued by the CAC, who has broad discretion to condition the permits on additional use restrictions. See CFAC section 14006. CDPR has oversight of the permit process and recommends conditions to be included in the CAC's permits. It can also enact use restrictions by regulation. See CFAC section 14005. In addition, for products containing a new active ingredient, CDPR may place appropriate restrictions on a product's use, including limitations on the quantity, area, and manner of application, and require low VOC formulations as a condition of registration. See CFAC section 12824.[26]

Comment: El Comité asserts that approval of the revised SIP commitment for the SJV and the fumigant regulations would be arbitrary and capricious and a violation of CAA section 110(a)(2)(E) because neither CDPR nor CARB have provided a demonstration that the commitment and regulations are not prohibited by Title VI of the Civil Rights Act and EPA's regulations implementing Title VI.

Response: In addition to requiring a state to provide necessary assurances regarding adequate resources and authority for implementation, CAA section 110 (a)(2)(E) also requires a state to provide ''necessary assurances that the State * * * is not prohibited by any provision of Federal or State law from carrying out such [SIP].''

El Comité asserts that California failed to provide a ''demonstration'' that its proposed revisions are not prohibited by Title VI of the Civil Rights Act.[27] Section 110(a)(2)(E), however, does not require a state to ''demonstrate'' it is not prohibited by Federal or State law from implementing its proposed SIP revision. Rather, this section requires a state to provide ''necessary assurances'' of this. Courts have given EPA ample discretion in deciding what assurances are ''necessary'' and have held that a general assurance or certification is sufficient. (''EPA is entitled to rely on a state's certification unless it is clear that the SIP violates state law and proof thereof * * * is presented to EPA.'' *BCCA Appeal Group* v. *EPA,* 355 F.3d 817, 830 fn 11 (5th Cir. 2003)).

El Comité does not allege a violation of Title VI by either CDPR or CARB nor does it provide evidence that either the revised SIP commitment for the SJV and/or the fumigant regulations would result in any adverse environmental impacts. While El Comité includes in their letter several statements on fumigant usage and fumigant VOC emissions in Ventura County and the SJV (citing various CDPR documents as the sources), it provides no evidence that these usage rates or pesticide VOC emissions rates are either the result of implementing the revised SIP commitment and/or fumigant regulations or would not have resulted absent the implementation of the commitment and regulations.[28]

On the other hand, California has provided multiple evaluations that show the revised SIP commitment for SJV and the fumigant regulations will improve California's air quality by reducing VOC emissions from pesticides, will not result in any significant adverse environmental impacts, and in fact, by reducing VOC, will improve air quality and assist the areas in their progress toward attainment of the ozone standards.[29]

Both CDPR and CARB receive annual grants from EPA and have done so for many years. As grant recipients, both agencies must certify their compliance with Title VI and have done so in every year since the revised commitment and fumigant regulations were first adopted by CDPR in 2007 and submitted by CARB in 2009.[30] In addition, by letter dated August 7, 2012, CDPR provided EPA a further description of the ways in which its pesticide regulatory program, including the VOC rule EPA is approving today, complies with sections 601 and 602 of Title VI of the Civil Rights Act of 1964 (Title VI) that govern recipients of federal financial assistance.[31] Thus, EPA concludes California has provided the necessary assurances pursuant to 110(a)(2)(e).

G. EPA's Response to the Ninth Circuit Court of Appeals Remand in Association of Irritated Residents Case

Comment: El Comité asserts that EPA offered no factual basis or reasoned explanation for concluding that, with the addition of the fumigant regulations, the revised SIP commitment for SJV is sufficiently enforceable, and because EPA has failed to provide an explanation, its approval of the fumigant regulations and the revised SIP commitment as enforceable in tandem is arbitrary and capricious.

Response: On page 24450 of our April 24, 2012 proposed rule, we concluded that:

> * * * there is no need to rescind or otherwise modify our 1997 approval of the Pesticide Element or our 2009 approval of PEST–1 notwithstanding the deficiencies in enforceability in the Pesticide Element due to the absence of an enforceable mechanism like the Wells Memorandum. In short, this is because CDPR's regulations and revised commitment for San Joaquin Valley provide the enforceable mechanism that would otherwise be lacking in the Pesticide Element. If EPA approves the regulations and commitment, as proposed herein, then the Pesticide Element would be fulfilled. If, after consideration of comments, EPA concludes that the regulations and commitment do not

[24] See CDPR, California Statewide Pesticide Regulatory Activities Summary Between July 2010 and June 2011 (*http://www.cdpr.ca.gov/docs/enforce/prasr/10-11prasr.pdf*), page 31.

[25] See CDPR, California Statewide Pesticide Regulatory Activities Summary Between July 2010 and June 2011, pp. 31 and 33 (found at *http://www.cdpr.ca.gov/docs/enforce/prasr/10-11prasr.pdf*).

[26] CDPR describes its authorities on page 1 of the revised SIP commitment for the SJV.

[27] Title VI of the Civil Rights Act of 1964 prohibits discrimination by entities receiving federal funds. 42 U.S.C. 2000d. Section 601 provides that no person shall, ''on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity'' covered by Title VI. *Id.* Section 602 authorizes federal agencies that provide federal funding assistance to issue regulations to effectuate the anti-discrimination provisions of Title VI. *Id.* at 2000d–1. Pursuant to section 602, EPA promulgated regulations prohibiting EPA funding recipients from engaging in discrimination. See 40 CFR 7.30 and 7.35.

[28] It is also worthy of note that, to EPA's knowledge, none of the groups that signed the El Comité letter raised Title VI concerns during CDPR's rulemaking process to adopt and amend the fumigant regulations or adopt the revised SIP commitment for SJV nor did they raise any Title VI concerns to EPA while CDPR and CARB were going through their respective rulemaking processes.

[29] For a list of these, see TSD, Section III.F. Response F–2.

[30] See, for example, EPA Form 4700–4, Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance for CDPR, May 10, 2010 and EPA Form 4700–4, Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance for CARB, August 13, 2010.

[31] Letter, Brian R. Leahy, Director, CDPR to Jared Blumenfeld, Regional Administrator, EPA Region 9, August 7, 2012, which can be found in the docket for this rule.

meet the applicable CAA requirements, then the decision regarding EPA's previous actions on the Pesticide Element would need to be reconsidered.

As explained further here and in other sections of this document, EPA is concluding CDPR's regulations and the commitment meet the applicable CAA requirements, and thus, we are finalizing our determination that the commitments in the 1994 Pesticide Element have been fulfilled, which in turn, forms the basis for our final decision not to rescind or otherwise modify our 1997 approval of the Pesticide Element or our 2009 approval of PEST–1. Specifically, as to SJV, we stated:

For San Joaquin Valley, CDPR's regulations restricting fumigant application methods and establishing requirements on CDPR to inventory and report VOC emissions from pesticide use apply just as they do in the other four nonattainment areas. While these regulations and other measures have decreased VOC emissions from pesticide use in San Joaquin Valley such that current VOC emissions are approximately 18 percent less than 1990 levels, CDPR concluded that a mechanism was needed to supplement the regulations to ensure that the 12 percent emissions reduction target would be met in the San Joaquin Valley. The supplemental mechanism chosen by CDPR is the adoption of a commitment, which we are proposing to approve in today's action, to manage VOC emissions from commercial structural and agricultural pesticide use, such that the related VOC emissions do not exceed 18.1 tons per day in the San Joaquin Valley. This level of emissions reflects a 12 percent emissions reduction from 1990 level of VOC emissions from pesticide use. The specific measures that CDPR would undertake to bring emissions back down to that level in the event that the annual inventory reveals that the 18.1 tons per day emissions level had been exceeded are vague. Considered in isolation, the revised commitment for San Joaquin Valley changes the form of the commitment in the Pesticide Element for the valley but does not represent an enforceable measure for SIP purposes. However, when viewed in light of the CDPR's regulations, the combination of the commitment and fumigant regulations does meet the minimum requirements for enforceability of SIP measures and reasonably ensures that the 12 percent emissions reduction target from the Pesticide Element would be achieved in San Joaquin Valley.

77 FR 24441, 24450.

Factual support for our conclusion is found in the CDPR staff report on the revised SIP commitment for SJV which provides a table of baseline pesticide emissions in SJV (19.3 tpd) and an estimate of the VOC emissions reductions (1.5 tpd) due to CDPR's fumigant regulations (that are being approved as part of this action). Based on the data in CDPR's table, the fumigant regulations reduce baseline pesticide emissions to 17.8 tpd, which is 0.3 tpd less than the 18.1 tpd emissions cap (that derives from the 12 percent emissions reduction commitment from the existing California SIP Pesticide Element). Therefore, in most years, CDPR's fumigant regulations alone would safeguard the emission limit.

CDPR acknowledges, however, that fumigant use varies from year to year and could in some years be unusually high, raising the potential for the emission limit to be exceeded. This is why CDPR commits (1) to implement restrictions to reduce VOC emissions from non-fumigant pesticides by 2014 and (2) to commit to manage pesticide VOC emissions in SJV through annual emissions inventories and take further steps to reduce pesticide VOC emissions if necessary to bring such emissions back down below the emission limit.

Comment: El Comité argues that EPA's rationale for finding the combination of the revised SIP commitment for SJV and the fumigant regulations enforceable is unfounded because three quarters of all adjusted pesticide VOC emissions in the SJV in 2010 came from non-fumigants and SJV exceeded the 18.1 tpd emissions cap in 2005 and 2006 ''despite CDPR's use of an adjusted inventory for fumigants in the Valley.'' They argue further that controlling only one-quarter of the pesticide VOC inventory in the Valley with the fumigant regulations does not ensure that the revised SIP commitment meets the CAA requirement for enforceability.

Response: El Comité cites CDPR's 2010 annual inventory of pesticide VOC emissions as the source for their claim that VOC emissions in SJV exceeded the 18.1 tpd limit in 2005 and 2006 and that fumigant VOC emissions represent only 25 percent of the overall total pesticide emissions in SJV. Based on our review of CDPR's Revised 2010 Pesticide VOC Emissions Report, we confirm El Comité's factual statements but believe that the report supports EPA's conclusion that the combination of the commitment and fumigant regulations does meet the minimum requirements for enforceability of SIP measures and reasonably ensures that the 12 percent emissions reduction target from the Pesticide Element would be achieved in SJV. This is because (1) the emissions cap of 18.1 tpd has not been exceeded since adoption of CDPR's fumigant regulations in 2008; and (2) the percentage of pesticide VOC emissions due to fumigant use has declined from an average of 34 percent during the 3-year period (2005–2007) prior to implementation of CDPR's fumigant regulations to an average of 24 percent during the 3-year period (2008–2010) after implementation. See tables 5 and 6a of CDPR's Revised 2010 Pesticide VOC Emissions Report. This decline in the percentage of pesticide VOC emissions due to fumigant use is exactly the effect that would be expected in light of the implementation of CDPR's restrictions on the use of higher-emitting application methods, and it demonstrates that CDPR's fumigant regulations are effective at reducing pesticide VOC emissions in the SJV and to maintaining in compliance with the 18.1 tpd emission limit.

Comment: El Comité argues that because the SIP revision lacks a commitment to retain the fumigant regulations, EPA's rationale for using the fumigant regulations as its basis for finding the SIP revision enforceable is ''illusory.'' El Comité asserts that CDPR could rescind the fumigant regulations and CARB could offer new VOC controls applicable to other sources to support a section 110(l) demonstration.

Response: The SIP revision does not need to include a commitment to retain the fumigant regulations. If CDPR were to rescind the fumigant regulations, such rescission must be approved by EPA as a SIP revision to be rescinded as a part of the California SIP. The CAA does not allow unilateral changes to SIPs by states. Moreover, EPA has determined that the fumigant regulations are required to meet the section 182(b)(2) reasonably available control technology (RACT) requirement in the SJV, so for at least for SJV, California would need to demonstrate that the SIP still provides for RACT in SJV absent the fumigant regulations. Simple substitution of the fumigant regulations with new VOC emissions controls may not suffice in SJV due to the RACT requirement for the pesticide use source category.

In addition, to approve any rescission of CDPR's fumigant regulations submitted as a SIP revision, we would need to find that such rescission would not interfere with RFP and attainment of the NAAQS or any other applicable requirement of the Act pursuant to CAA section 110(l), and would therefore need to consider the effect of the rescission on the continued enforceability of the California SIP Pesticide Element and would need to consider the emissions impacts in the context of the RFP and attainment needs of the areas for which the regulations provide emissions reductions. Lastly, we note that any action EPA would take on such a rescission of the fumigant regulations would be subject to the normal public

notice and comment procedures that EPA follows for all actions on SIPs and SIP revisions.

III. Final Action

EPA is approving under CAA section 110(k)(3) the revisions to the California SIP Pesticide Element submitted by CARB on October 12, 2009 and August 2, 2011 (with the exception of the provisions related to methyl iodide). These revisions include CDPR's fumigant regulations and its revised SIP commitment for the SJV. Our approval will incorporate these revisions into the California's federally-enforceable SIP. This approval also satisfies California's obligation to implement RACT for field fumigation operations in the SJV under CAA section 182(b)(2) for the 1-hour ozone and 1997 8-hour ozone standards and thereby terminates both the sanctions clocks and the Federal Implementation Plan clock for this source category triggered by our January 10, 2012 partial disapproval action. See 77 FR 1417 (January 10, 2012).

EPA provided its preliminary response to the remands by the Ninth Circuit Court of Appeals in *Association of Irritated Residents* v. *EPA,* 632 F.3d 584 (9th Cir. 2011), revised January 27, 2012 (*AIR*) in the proposal for this rule. See 77 FR 24441, 24447. The *Association of Irritated Residents* remand required EPA to evaluate the California SIP Pesticide Element for enforceability under the CAA. In the proposed rule, EPA found that there is no need to either rescind or modify our prior approvals of the Pesticide Element because it had concluded that the SIP revisions fulfilled the commitments of the original Pesticide Element, thus obviating the need to address the deficiencies in enforceability of those original commitments. We are finalizing our response from the proposal without change.[32]

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the EPA Administrator is required to approve a SIP submittal 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 submittals, 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 Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 14, 2012.

Jared Blumenfeld,

Regional Administrator, Region 9.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(413) and (c)(414) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(413) The following plan revisions were submitted on October 12, 2009, by the Governor's designee.

(i) Incorporation by reference.

(A) California Department of Pesticide Regulation.

(*1*) California Code of Regulations, Title 3 (Food and Agriculture), Division 6 (Pesticides and Pest Control Operations), Chapter 2 (Pesticides), Subchapter 4 (Restricted Materials), Article 4 (Field Fumigation Use

[32] Our final response to the remand in *Association of Irritated Residents* also represents our final response to the Ninth Circuit's July 2, 2012 remand order in *El Comité Para El Bienestar De Earlimart* v. *EPA* (No. 08–74340). Because both remands necessitate the same type of evaluation for the same portion of the California SIP, our rationale for our response to both remands is the same.

Requirements), sections 6447, ''Methyl Bromide-Field Fumigation—General Requirements,'' the undesignated introductory text (operative January 25, 2008; as published in Register 2010, No. 44); 6447.3, ''Methyl Bromide-Field Fumigation Methods'' (operative January 25, 2008); 6448, ''1,3, Dichloropropene Field Fumigation—General Requirements'' (operative January 25, 2008); 6449, ''Chloropicrin Field Fumigation—General Requirements'' (operative January 25, 2008); 6450, ''Metam-Sodium, Potassium N-methyldithiocarbamate (metam-potassium), and Dazomet Field Fumigation—General Requirements'' (operative January 25, 2008); 6450.2, ''Dazomet Field Fumigation Methods'' (operative January 25, 2008); 6451, ''Sodium Tetrathiocarbonate Field Fumigation—General Requirements'' (operative January 25, 2008); 6451.1, ''Sodium Tetrathiocarbonate Field Fumigation Methods'' (operative January 25, 2008); 6452, ''Reduced Volatile Organic Compound Emissions Field Fumigation Methods'' (operative January 25, 2008); 6452.1, ''Fumigant Volatile Organic Compound Emission Records and Reporting'' (operative January 25, 2008).

(ii) Additional material.

(A) California Department of Pesticide Regulation.

(*1*) Decision, ''In the Matter of Proposed Ozone SIP Commitment for the San Joaquin Valley,'' signed by Mary-Ann Warmerdam, April 17, 2009, including Exhibit A, ''Department of Pesticide Regulation Proposed SIP Commitment for San Joaquin Valley.''

(*2*) Memorandum, Rosemary Neal, Ph.D., California Department of Pesticide Regulation to Randy Segawa, California Department of Pesticide Regulation, November 5, 2008; Subject: Update to the Pesticide Volatile Organic Inventory. Estimated Emissions 1990–2006, and Preliminary Estimates for 2007.

(414) The following plan revisions were submitted on August 2, 2011, by the Governor's designee.

(i) Incorporation by reference.

(A) California Department of Pesticide Regulation.

(*1*) California Code of Regulations, Title 3 (Food and Agriculture), Division 6 (Pesticides and Pest Control Operations), Chapter 2 (Pesticides), Subchapter 4 (Restricted Materials), Article 4 (Field Fumigation Use Requirements), sections 6448.1, ''1,3-Dichloropropene Field Fumigation Methods'' (operative April 7, 2011); 6449.1, ''Chloropicrin Field Fumigation Methods'' (operative April 7, 2011); 6450.1, ''Metam-Sodium and Potassium N-methyldithiocarbamate (Metam-Potassium) Field Fumigation Methods'' (operative April 7, 2011); 6452.2, ''Fumigant Volatile Organic Compound Emission Limits'' (excluding benchmarks for, and references to, Sacramento Metro, San Joaquin Valley, South Coast, and Southeast Desert in subsection (a) and excluding subsection (d))(operative April 7, 2011); 6452.3, ''Field Fumigant Volatile Organic Compound Emission Allowances'' (operative April 7, 2011); 6452.4, ''Annual Volatile Organic Compound Emissions Inventory Report'' (excluding reference to section 6446.1 in subsection(a)(4))(operative April 7, 2011).

(*2*) California Code of Regulations, Title 3 (Food and Agriculture), Division 6 (Pesticides and Pest Control Operations), Chapter 3 (Pest Control Operations), Subchapter 2 (Work Requirements), Article 1 (Pest Control Operations Generally), sections 6624, ''Pesticide Use Records'' (excluding references in subsection (f) to methyl iodide and section 6446.1) (operative December 20, 2010); section 6626, ''Pesticide Use Reports for Production Agriculture'' (operative April 7, 2011).

* * * * *

[FR Doc. 2012–26311 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0408; FRL–9726–3]

Approval of Air Quality Implementation Plans; California; San Joaquin Valley Unified Air Pollution Control District; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action under section 110 of the Clean Air Act (CAA or Act) to approve a State Implementation Plan (SIP) revision for the San Joaquin Valley Unified Air Pollution Control District (District) portion of the California SIP. This SIP revision incorporates District Rule 2410—Prevention of Significant Deterioration (PSD)—into the California SIP to establish a PSD permit program for pre-construction review of certain new and modified major stationary sources in attainment or unclassifiable areas. EPA is approving this SIP revision because Rule 2410 provides an adequate PSD permitting program as required by section 110 and part C of title I of the CAA.

DATES: This rule is effective on November 26, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0408 for this action. Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. Some docket materials, however, may be publicly available only at the hard copy location (*e.g.,* voluminous records, maps, copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region IX, (415) 972–3811, *beckham.lisa@epa.gov.*

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

Table of Contents

I. Background
II. EPA's Evaluation of the SIP Revision
A. What action is EPA finalizing?
B. Public Comments and EPA Responses
III. EPA's Final Action
IV. Statutory and Executive Order Reviews

I. Background

Section 110(a) of the CAA requires states to adopt and submit regulations for the implementation, maintenance and enforcement of the primary and secondary national ambient air quality standards (NAAQS). Specifically, CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) require the State's plan to meet the applicable requirements of section 165 relating to a pre-construction permit program for the prevention of significant deterioration of air quality and visibility protection. The purpose of District Rule 2410—Prevention of Significant Deterioration, is to implement a pre-construction PSD permit program as required by section 165 of the CAA for certain new and modified major stationary sources located in attainment areas. EPA is currently the PSD permitting authority within the District because the State does not currently have a SIP-approved PSD program within the District. Inclusion of this revision in the SIP will mean that the District has an approved PSD permitting program and will transfer PSD permitting authority from EPA to the District. EPA would then assume the role of overseeing the District's PSD permitting program, as

intended by the CAA. For a more detailed discussion of District Rule 2410, please refer to our proposed approval. See 77 FR 32493 (June 1, 2012).

II. EPA's Evaluation of the SIP Revision

A. What action is EPA finalizing?

EPA is finalizing a SIP revision for the San Joaquin Valley portion of the California SIP. The SIP revision will be codified in 40 CFR 52.220 and 40 CFR 52.270 by incorporating by reference District Rule 2410, as adopted June 16, 2011 and submitted to EPA by the California Air Resources Board (CARB) on August 23, 2011. In addition, the letter from the District to EPA, dated May 18, 2012, providing certain clarifications concerning District Rule 2410 and 40 CFR 51.166, will be included as additional material in 40 CFR 52.220. The regulatory text addressing this action also makes it clear that EPA is relying, in part, on the clarifications provided in the District's May 18, 2012 letter in taking this final approval action. As such, the District's implementation of the PSD program in a manner consistent with these clarifications is a pre-condition of today's final approval of the District's PSD SIP revision. This SIP revision provides a federally approved and enforceable mechanism for the District to issue pre-construction PSD permits for certain new and modified major stationary sources subject to PSD review within the District.

As discussed in EPA's proposal relating to today's SIP revision approval action, the District has requested approval to exercise its authority to administer the PSD program with respect to those sources located in the District that have existing PSD permits issued by EPA, including authority to conduct general administration of these existing permits, authority to process and issue any and all subsequent PSD permit actions relating to such permits (*e.g.,* modifications, amendments, or revisions of any nature), and authority to enforce such permits. Pursuant to the criteria in section 110(a)(2)(E)(i) of the CAA, we have determined that the District has the authority, personnel, and funding to implement the PSD program within the District for existing EPA-issued permits and therefore are transferring authority for such permits to the District concurrent with the effective date of EPA's approval of the District's PSD program into the SIP. A list of the EPA-issued permits that we anticipate will be transferred to the District is provided in the docket for this action. EPA has already provided a copy of each such permit to the District. As described in our proposal, EPA will retain PSD permit implementation authority for those specific sources within the District that have submitted PSD permit applications to EPA and for which EPA has issued a proposed PSD permit decision, but for which final agency action and/or the exhaustion of all administrative and judicial appeals processes (including any associated remand actions) have not yet been concluded or completed upon the effective date of EPA's final SIP approval action for Rule 2410. The District will assume full PSD responsibility for the administration and implementation of such PSD permits immediately upon notification from EPA that all administrative and judicial appeals processes and any associated remand actions have been completed or concluded for any such permit application.

B. Public Comments and EPA Responses

In response to our June 1, 2012 proposed rule, we received two comment letters, one from the Western States Petroleum Association (WSPA) and one from Earthjustice on behalf of a consortium of environmental groups (Medical Advocates for Healthy Air, the Kern-Kaweah Chapter of the Sierra Club, the Center for Race, Poverty, and the Environment, and the Central Valley Air Quality Coalition). Copies of each comment letter have been added to the docket for this action and are accessible at www.regulations.gov. The comment letter from WSPA supports EPA's analysis and proposal to approve District Rule 2410 into the SIP. The comment letter from Earthjustice opposes the SIP revision and raises several specific objections. We have summarized the comments received and provided a response to the comments below.

Comment 1: WSPA expresses its support for EPA's expeditious approval of District Rule 2410, and recommends that such approval be completed as soon as possible in order to ensure that permitting is not unduly impacted for facilities subject to PSD review.

Response 1: EPA appreciates the commenter's support. We agree that EPA's proceeding expeditiously with its final action on the District's PSD SIP revision, after careful consideration of public comments received on its proposed action, will serve to facilitate timely processing of PSD permit decisions for facilities within the District that are subject to PSD review.

Comment 2: Earthjustice states that CAA sections 110(a)(2)(A) and (C) require SIPs to include enforceable measures to regulate the construction and modification of stationary sources. The commenter believes that District Rule 2410 includes loopholes for enforcing District compliance with its permitting requirements because currently, within the District, interested parties are able to seek judicial review of final PSD permitting decisions under section 307 of the Act, whereas under Rule 2410 and California state law there is no right to judicial review of permitting decisions for power plants licensed by the California Energy Commission (CEC). The commenter asserts that under California Public Resources Code (CPRC) section 25531, judicial review of such CEC approvals may only be had at the discretion of the State Supreme Court, and there is no guaranteed right of review. The commenter states that this legal conclusion regarding the limited availability of judicial review for power plant permitting decisions has been repeatedly asserted by the CEC and the District. The commenter concludes that approval of Rule 2410 would open the door for abuse and noncompliance in PSD permitting decisions, and does not comply with the requirements of section 110(a)(2) of the Act because it does not guarantee judicial enforceability.

Response 2: As EPA has stated previously, we interpret the CAA to require an opportunity for judicial review of a decision to grant or deny a PSD permit, whether issued by EPA or by a State under a SIP-approved or delegated PSD program. See 61 FR 1880, 1882 (Jan. 24, 1996) (EPA's proposed disapproval of Virginia's PSD program SIP revision due to State law standing requirements that limited judicial review); 72 FR 72617, 72619 (December 21, 2007) (in approving South Dakota's PSD program, EPA stated: ''We interpret the statute and regulations to require at minimum an opportunity for state judicial review of PSD permits''). EPA continues to interpret the relevant provisions of the Act as described in these prior rulemaking actions. We believe that Congress intended for state judicial review of PSD permit decisions to be available for members of the public who can satisfy threshold standing requirements under Article III of the Constitution. See 61 FR 1882, January 24, 1996.

The commenter argues that California's judicial review procedures under CPRC 25531 for PSD permit decisions subject to the CEC certification process do not satisfy the CAA's requirements for judicial review. The commenter states that these State judicial review procedures are inadequate because such review may

only be had at the discretion of the State Supreme Court, and there is no guaranteed right of judicial review.

CPRC section 25531(a) provides: ''The decisions of the [CEC] on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.'' [1] California courts have found that California Supreme Court review of a power plant certification decision under CPRC section 25531 is a decision on the merits. *Santa Teresa Citizen Action Group* v. *California Energy Commission,* 105 Cal. App. 4th 1441, 1447–1448 (2003); *see also In re Rose,* 22 Cal.4th 430, 444 (2000) (when the sole means of review is a petition in the California Supreme Court, even the court's denial of the petition—with or without an opinion—reflects a judicial determination on the merits). EPA believes that the opportunity provided by CPRC 25531 to seek review of a PSD permit decision for a CEC-certified facility before the California Supreme Court and to obtain that court's judicial determination on the merits satisfies the CAA requirement that an opportunity for judicial review be provided under State law for PSD permits in SIP-approved PSD programs. We recognize that the judicial review process under CPRC 25531 differs in a number of respects from the administrative and judicial review processes available for PSD permit decisions under 40 CFR part 124 (opportunity to petition for administrative review by the EPA's Environmental Appeals Board (EAB)) and section 307(b) of the CAA (opportunity to seek review before Circuit Court of Appeals) when EPA or a delegated agency under 40 CFR 52.21 is the PSD permit issuer. However, the CAA does not require that the process for judicial review of the grant or denial of a PSD permit issued under a SIP-approved PSD program be identical to that provided when EPA or a delegated agency under 40 CFR 52.21 is the PSD permit issuer.

Comment 3: Earthjustice suggests that District Rule 2410 does not meet the public participation requirements of 40 CFR 51.166(q), citing sections 110(a)(2)(A) and (C) of the Act. The commenter states that EPA notes that Rule 2410 does not, on its face, comply with various public participation requirements in 40 CFR 51.166(q). The commenter further states that EPA dismisses these defects by relying on commitments in a letter from the District's Permitting Director to comply with the public participation requirements for issuing PSD permits. The commenter states that these commitments are not enforceable, are insufficient to support approval, and are not proposed to be codified into the SIP or other approved regulatory language. The commenter also states that it has not been established through any legal reference that the District's Permitting Director is authorized or empowered to bind the District legally to any particular practice, and that should the District fail to adhere to the processes outlined in its letter, stakeholders would have no recourse for ensuring the District's adherence. The commenter also states that the District has relinquished some of its permit processing responsibilities to the CEC, and that the CEC would not be bound by the District's commitments.

Response 3: We disagree that Rule 2410 does not comply with the public participation requirements of 40 CFR 51.166(q). Section 5.0 of Rule 2410 requires the District to follow the public participation requirements identified in certain sections of District Rule 2201 prior to issuing a PSD permit. District Rule 2201 is enforceable because it is already approved into the California SIP (see, *e.g.,* 75 FR 26102 (May 11, 2010)). EPA asked the District to provide a letter clarifying, among other things, how Rule 2201 addresses certain specific requirements of 40 CFR 51.166 relating to the District's implementation of a number of PSD procedural requirements. EPA believes this written clarification is appropriate to support our analysis of and conclusions concerning Rule 2410. As noted above in Section II.A, the District provided a clarification letter dated May 18, 2012 to EPA that reflects the District's and EPA's interpretation of the District's public participation processes consistent with 40 CFR 51.166(q). The letter memorializes the proper intended reading of the provisions at issue, and the regulatory text that EPA is finalizing in this action expressly states that EPA is basing its approval of the District's PSD SIP, in part, on the clarifications regarding the District's implementation of the PSD program contained in the District's May 18, 2012 letter. EPA is also including this letter in the additional materials that will be referenced in the CFR as part of this SIP revision approval action. Because the District's implementation of the PSD program in a manner consistent with these clarifications, including those related to the District's public participation processes, is clearly a pre-condition of today's final approval of the District's PSD SIP revision, the clarifications provided in this letter concerning District Rule 2410 are binding and enforceable, and the District must adhere to the positions taken in the letter. In sum, District Rule 2410 meets the public participation requirements of 40 CFR 51.166(q) and is therefore consistent with section 110(a) of the Act in this regard.

Finally, with respect to the argument that the District has relinquished some of its permit processing responsibilities for power plants to the CEC, we are not aware of any particular PSD public participation requirements related to 40 CFR 51.166(q) that the District will be relying on the CEC to meet on the District's behalf, and the commenter has not specifically identified any such requirement. The District must adhere to the public participation requirements in Rule 2410 prior to issuing a PSD permit.

Comment 4: Earthjustice asserts that EPA has not demonstrated, as required by section 110(l) of the Act, that the federal PSD program, as ''reformed'' through the addition of the flexibility provisions in 2002, will not interfere with the maintenance of the national ambient air quality standards. The commenter disagrees with EPA's analysis that ''the requirements of the PSD SIP revision are essentially equivalent to * * * those of the [Federal Implementation Plan] codified in 40 CFR 52.21'' in support of EPA's determination that its proposed SIP approval action here would be consistent with section 110(l). The commenter states that the problem with this argument is that there has not been any analysis of whether these PSD regulations, with the various flexibilities that allow sources to be constructed without offsetting emission reductions, without best available control technology to minimize emission increases, and often without any obligation to ensure that the emissions will not cause or contribute to a violation of any national ambient air quality standards, are sufficient to prevent deterioration of air quality and sliding the District into nonattainment. The commenter notes that the PSD program being approved into the SIP has never been a part of the SIP and therefore has never been analyzed for its consistency with a plan for maintaining compliance with the national standards. The commenter believes it is meaningless to say that the permitting program will not get any worse once it is approved into the SIP because it has

[1] The term ''facility'' within the meaning of CPRC 25531 refers to ''any electric transmission line or thermal powerplant, or both electric transmission line and thermal powerplant,'' and the term ''site'' refers to ''any location on which a facility is constructed or is proposed to be constructed.'' (CPRC 25110, 25119.)

never been demonstrated that this permitting program is adequate to prevent the deterioration of air quality in the District.

The commenter states that the California legislature has specifically rejected EPA's finding that the 2002 New Source Review (NSR) Reforms could benefit air quality because permit requirements have impeded or deterred upgrades to sources, citing California Health and Safety Code sections 42501(e) and (f) (finding that the revisions to the federal regulations drastically reduce the circumstances under which modifications at an existing source would be subject to federal new source review and rejecting the argument that this would be beneficial to air quality because this claim is contradicted by California's experience). The commenter believes that the 2002 NSR Reforms to the PSD regulations allow growth to increase with fewer mitigation requirements and fewer safeguards for assessing air quality impacts.

The commenter also notes that although the District is attainment or unclassifiable for particulate matter 10 micrometers (μm) in diameter and smaller (PM_{10}), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), carbon monoxide (CO), and lead, EPA has approved a maintenance plan only for PM_{10} in the last 10 years since the revisions to the PSD regulations. The commenter asserts that without such a plan there is no basis for assessing how a permitting program that allows significant modifications of major sources to avoid control and air quality analysis requirements will ensure that increased emissions from these sources will not interfere with attainment of the national standards. The commenter argues that blind reliance on the District's parallel nonattainment new source review permitting is no substitute for the missing analysis because the District allows sources to offset emission increases with ''pre-baseline'' emission reduction credits—meaning current air quality sees only an increase in emissions—and to offset emission increases of one pollutant with decreases of another, which may or may not be relevant to maintenance of the particular national standard.

The commenter asserts that EPA needs to provide its argument and analysis under section 110(l) of the Act for review and comment, as the proposed rule provides no rational basis for believing that the District's PSD program is sufficient to prevent growth in emissions that could interfere with attainment and maintenance of the national ambient air quality standards in the Valley.

Response 4: We disagree with the commenter's contentions that EPA has not conducted the analysis required by section 110(l) of the Act and that EPA's analysis does not provide adequate assurance that approval of the District's PSD program would not interfere with maintenance of the NAAQS. As stated in the **Federal Register** notice for our proposed approval of the District's PSD SIP revision, EPA included an analysis under section 110(l) in the technical support document (TSD) for the proposed rulemaking for this SIP revision approval action. In the TSD, we stated that our approval of the submittal would comply with CAA section 110(l), because the SIP, as revised to reflect the submitted revision, would provide for reasonable further progress and attainment of the NAAQS, and the requirements of the PSD SIP revision are essentially equivalent to, and at least as stringent as, those of the Federal Implementation Plan (FIP) codified in 40 CFR 52.21 and used to date by EPA to implement the required PSD program within the District. EPA noted that approval of the District's PSD SIP submittal would merely result in the transfer of authority for the PSD program from the EPA to the District, and therefore would not result in any substantive changes to the PSD program requirements, other CAA requirements, or air quality. We believe that our 110(l) analysis was adequate and appropriate, for the following reasons.

Section 110(l) of the CAA states that ''[t]he Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of this chapter.'' 42 U.S.C. 7410(l). EPA does not interpret section 110(l) to require a full attainment or maintenance demonstration before any changes to a SIP may be approved. Generally, a SIP revision may be approved under section 110(l) if EPA finds that it will at least preserve status quo air quality, particularly where, as here, the pollutants at issue are those for which an area has not been designated nonattainment.

In response to the commenter's concern that approval of the District's PSD SIP submittal including NSR Reform would allow fewer projects to be subject to PSD review,[2] meaning that fewer sources must demonstrate that their emission increases will not cause or contribute to a violation of the NAAQS or apply the best available control technology to those emission increases, we note that our approval of the District's PSD program, which incorporates by reference 40 CFR 52.21, into the SIP will not result in a change to the status quo. As stated in our TSD, the PSD program has been implemented within the District by EPA in accordance with the provisions of 40 CFR 52.21, which incorporated the NSR Reform provisions to which the commenter refers since their inception.

Even if the provisions of 40 CFR 52.21 as revised through NSR Reform were not already in place within the District, EPA is not aware of any basis for concluding that the PSD program under 40 CFR 52.21, including NSR Reform, that has been incorporated by reference by the District would interfere with the maintenance of the NAAQS within the District, nor has the commenter provided specific information demonstrating that such interference would occur. The commenter refers to a general legislative statement by the California legislature that appears to have been adopted in 2003 that disagrees generally with NSR Reform but which is not specific as to what changes in air quality, if any, would occur as a result of EPA's approval of the District's PSD program.

NSR Reform affects only permitting of modifications to existing sources, and more specifically, modifications to existing emissions units. Any growth occurring from new, greenfield sites would be controlled and permitted in the same manner both pre- and post-reform. Therefore, any concerns about NSR Reform would be related to unregulated growth from existing major sources. In the specific case of the District, modifications that are not subject to PSD review generally have been, and will continue to be, subject to review under the District's minor NSR program, which is approved into the California SIP through District Rule 2201. Rule 2201 contains the District's permit program for all increases in pollutants subject to a NAAQS, whether classified as attainment, nonattainment, or unclassifiable by EPA. The rule includes pre-construction permitting requirements for sources that are not required to be permitted under title I,

[2] EPA understands the comment regarding the ''various flexibilities'' allowing sources to be constructed without BACT and air quality assessment to be directed at NSR Reform's revisions to the method of determining what changes are deemed to be major modifications under EPA and San Joaquin's rules and therefore subject to PSD review. Plainly, once a change is deemed a major modification, 40 CFR 52.21 and the District's rule incorporating 52.21 by reference have provisions for BACT and air quality assessments required by PSD.

parts C and D of the Act as new major stationary sources or major modifications at existing major stationary sources in attainment or nonattainment areas, which are commonly referred to as ''minor NSR,'' although this term is not used in Rule 2201. A modification in the District that is not required to obtain a PSD permit (whether due to the application of the NSR Reform provisions or not) would still be subject to the preconstruction permit requirements of the District's minor NSR program in Rule 2201, including any associated testing, monitoring, recordkeeping and reporting requirements. All modifications within the District are required to obtain a permit revision prior to modification of the applicable units. Generally, for any new or modified emissions unit, the District's NSR program begins applying BACT for emission increases of two pounds per day (0.4 tons per year).[3] See District Rule 2201, Sections 4.1 and 4.2. The District's NSR program also generally requires a demonstration that emissions from certain new or modified stationary sources, including minor sources, will not cause or make worse the violation of an ambient air quality standard. See District Rule 2201, Section 4.14. EPA's approval of the District's PSD program will not change the level of review that is conducted for modifications not subject to PSD review within the District. The District's robust minor NSR permitting program for such sources provides additional assurance that EPA's approval of the District's PSD SIP revision, which incorporates NSR Reform, will not interfere with maintenance of the NAAQS within the District.

We note that at the time EPA adopted NSR Reform, we provided an analysis of the environmental impacts of the ''various flexibilities'' the commenter discusses. Based on examples and modeling, we concluded that NSR Reform would likely have a neutral to positive effect on air quality relative to the pre-Reform provisions. *See generally* Supplemental Analysis of the Environmental Impact of the 2002 Final NSR Improvement Rules (Nov. 21, 2002) (Supplemental Analysis).[4] This analysis applied at the time the NSR Reforms became effective within the District, March 3, 2003. See 67 FR 80186. The commenter has provided no specific data that leads EPA to conclude that this initial analysis was incorrect. Considering the District's minor NSR program, which was not a part of the above-mentioned national analysis, the environmental impacts of continuing to implement the NSR Reform should not be different from the effect modeled in the analysis.

In sum, as EPA concluded in its TSD for the proposed rulemaking, the transfer of the PSD program under 40 CFR 52.21 from EPA to the District is not expected to result in any substantive changes to the PSD program requirements, other CAA requirements, or air quality within the District, and EPA continues to believe that its approval of the District's PSD SIP revision would not interfere with attainment and maintenance of the NAAQS within the District, or with any other applicable requirement of the CAA. EPA bases this conclusion on the fact that the District's PSD program will be no less stringent than the federal PSD program under 40 CFR 52.21 that it is replacing. In addition, EPA has taken into consideration the District's extensive minor source permitting program that will impose control requirements on sources that are not major under the PSD program. EPA finds that the approval of this SIP revision is entirely consistent with the development of a plan for the District to attain and maintain the NAAQS.

Last, it is unclear to EPA what the basis is for the commenter's statement that relying on the existing District nonattainment NSR program is not a substitute for the necessary analysis under CAA section 110(l) in terms of maintenance of the NAAQS, or how the commenter's concerns with the District's nonattainment NSR permitting process relate to EPA's CAA section 110(l) analysis in this case. We assume that the commenter is referring in this statement to the District's major nonattainment NSR program.[5] For the reasons outlined above, EPA believes that its 110(l) analysis for this action is appropriate, and we have not specifically relied on the District's major nonattainment NSR program to support our 110(l) analysis here because our approval action addresses the District's PSD permitting program, which regulates only those pollutants for which the District has been designated attainment or unclassifiable. General concerns about the District's major nonattainment NSR permitting process are outside the scope of this PSD SIP revision approval action.

III. EPA's Final Action

EPA is approving CARB's August 23, 2011 submittal of District Rule 2410—Prevention of Significant Deterioration (PSD)—into the California SIP to establish a PSD permit program for pre-construction review of certain new and modified major stationary sources in attainment or unclassifiable areas.

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). 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

[3] Under the District's rules, CO emissions from a new or modified emissions unit at a stationary source with a post project potential to emit of less than 100 tons per year are exempt from the requirement to apply BACT. In addition, the District's definition of BACT is at least as stringent as the federal definitions for Lowest Achievable Emission Rate (LAER).

[4] The Supplemental Analysis is available at *http://epa.gov/nsr/documents/nsr-analysis.pdf,* and has also been added to the docket for this action. It is incorporated into these responses by reference.

[5] To the extent the commenter may be referring to the District's minor NSR program as it relates to nonattainment pollutants, as noted in more detail above, the District's minor NSR program is quite comprehensive and will impose permit requirements on numerous sources not subject to major nonattainment NSR or PSD review by the District, and, accordingly, will provide additional protection of the NAAQS beyond that provided by the District's PSD program.

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 December 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 CAA section 307(b)(2).)

List of Subjects in 40 CFR part 52

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

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

Dated: August 30, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding new paragraph (c)(415) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(415) New and amended regulations were submitted on August 23, 2011 by the Governor's designee. Final approval of these regulations is based, in part, on the clarifications contained in a May 18, 2012 letter from the San Joaquin Valley Unified Air Pollution Control District regarding specific implementation of parts of the Prevention of Significant Deterioration program.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 2410, ''Prevention of Significant Deterioration,'' adopted on June 16, 2011.

(ii) Additional materials.

(A) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(*1*) Letter dated May 18, 2012 from David Warner, SJVUAPCD, to Gerardo Rios, United States Environmental Protection Agency Region 9, regarding Clarifications of District Rule 2410 and 40 CFR 51.166.

■ 3. Section 52.270 is amended by adding new paragraph (b)(5) to read as follows:

§ 52.270 Significant deterioration of air quality.

* * * * *

(b) * * *

(5) Rule 2410, ''Prevention of Significant Deterioration,'' adopted on June 16, 2011, for the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) is approved under Part C, Subpart 1, of the Clean Air Act, based, in part, on the clarifications provided in a May 18, 2012 letter from the San Joaquin Valley Unified Air Pollution Control District described in § 52.220(c)(415). For PSD permits previously issued by EPA pursuant to § 52.21 to sources located in the SJVUAPCD, this approval includes the authority for the SJVUAPCD to conduct general administration of these existing permits, authority to process and issue any and all subsequent permit actions relating to such permits, and authority to enforce such permits, except for:

(i) Those specific sources within the SJVUAPCD that have submitted PSD permit applications to EPA and for which EPA has issued a proposed PSD permit decision, but for which final agency action and/or the exhaustion of all administrative and judicial appeals processes (including any associated remand actions) have not yet been concluded or completed by November 26, 2012. The SJVUAPCD will assume full responsibility for the administration and implementation of such PSD permits immediately upon notification from EPA to the SJVUAPCD that any and all administrative and judicial appeals processes (and any associated remand actions) have been completed or concluded for any such permit decision. Prior to the date of such notification, EPA is retaining authority to apply § 52.21 for such permit decisions, and the provisions of § 52.21, except paragraph (a)(1), are therefore incorporated and made a part of the State plan for California for the SJVUAPCD for such permit decisions during the identified time period.

(ii) [Reserved].

[FR Doc. 2012–26294 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2007–0562; FRL–9746–6]

Additional Air Quality Designations for the 2006 24-Hour Fine Particle National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental amendments; final rule.

SUMMARY: The EPA is taking final action to establish the initial 2006 24-hour fine particle ($PM_{2.5}$) national ambient air quality standards (NAAQS) air quality designations for the Ak-Chin Indian Community located in Pinal County, Arizona, and the Gila River Indian Community located in Pinal County and Maricopa County, Arizona. On November 13, 2009, and February 3, 2011, the EPA promulgated air quality designations nationwide for all but these two areas for the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA deferred initial $PM_{2.5}$ air quality designations for the

Ak-Chin Indian Community and the Gila River Indian Community in the earlier promulgated designations.

DATES: The effective date of this rule is November 26, 2012.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2007–0562. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* 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 in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

In addition, the EPA has established a Web site for this rulemaking at: *http://www.epa.gov/pmdesignations/2006standards/index.htm.* The Web site includes the EPA's final state and tribal designations, as well as state and tribal initial recommendation letters, the EPA modification letters, technical support documents, responses to comments and other related technical information.

FOR FURTHER INFORMATION CONTACT: Beth W. Palma, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539–04, Research Triangle Park, NC 27711, telephone (919) 541–5432, email at *palma.elizabeth@epa.gov* or Ginger Vagenas, Air Planning Office, U.S. Environmental Protection Agency, Mail Code AIR–2, 75 Hawthorne Street, San Francisco, CA 94105, phone number (415) 972–3964 or by email at *vagenas.ginger@epa.gov.*

SUPPLEMENTARY INFORMATION: The public may inspect the rule and the technical supporting information by contacting Ginger Vagenas, Air Planning Office, U.S. Environmental Protection Agency, Mail Code AIR–2, 75 Hawthorne Street, San Francisco, CA 94105, phone number (415) 972–3964.

Table of Contents

The following is an outline of the preamble.

I. Preamble Glossary of Terms and Acronyms
II. What is the purpose of this action?
III. What are the 2006 24-hour $PM_{2.5}$ NAAQS designations promulgated in this action?
IV. Where can I find information forming the basis for this rule and exchanges between the EPA and tribes related to this rule?
V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act (NTTAA)
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act
L. Judicial Review

I. Preamble Glossary of Terms and Acronyms

The following are abbreviations of terms used in the preamble.

APA Administrative Procedure Act
CAA Clean Air Act
CBSA Core Based Statistical Area
CFR Code of Federal Regulations
DC District of Columbia
EO Executive Order
EPA Environmental Protection Agency
FR **Federal Register**
NAAQS National Ambient Air Quality Standards
NTTAA National Technology Transfer Advancement Act
RFA Regulatory Flexibility Act
$\mu g/m^3$ micrograms per cubic meter
UMRA Unfunded Mandate Reform Act of 1995
TAR Tribal (Clean Air Act) Authority Rule
U.S. United States
VCS Voluntary Consensus Standards

II. What is the purpose of this action?

This action finalizes the initial air quality designations for portions of Indian Country located in Arizona that were previously deferred. At the time that the EPA finalized designations for the 2006 24-hour $PM_{2.5}$ NAAQS (74 FR 58688, November 13, 2009), the EPA deferred designations for Pinal County, Arizona, and surrounding counties to evaluate further high fine particle concentrations during 2006–2008, a period which indicated a possible new violating monitor in Pinal County, Arizona. The EPA also deferred designations for areas of Indian Country located within or near the deferred counties. On February 3, 2011 (76 FR 6056),[1] the EPA took action to finalize designations for the deferred area, designating as ''nonattainment'' state lands in a portion of Pinal County, Arizona (West Central Pinal nonattainment area).[2] The basis for establishing this nonattainment area was monitored air quality data for 2006–2008 indicating a violation of the NAAQS.[3] The EPA designated the remaining portion of Pinal County, the surrounding deferred counties (Cochise, Gila, Graham, La Paz, Maricopa, Pima, Yavapai and Yuma counties), and, except as noted below, areas of Indian Country located within those areas, as ''unclassifiable/attainment.''

The EPA continued its deferral of the designation of the Gila River Indian Community reservation, which is located in Pinal and Maricopa counties adjacent to the new nonattainment area, and the Ak-Chin Indian Community reservation, which is surrounded by the West Central Pinal nonattainment area, to allow for the completion of the tribal consultation process. (*See* 76 FR 6056, February 3, 2011).

With this action, the EPA is promulgating initial area designations for the areas of Indian Country of the Ak-Chin Indian Community and the Gila River Indian Community in accordance with the requirements of Clean Air Act (CAA) section 107(d).

III. What are the 2006 24-hour $PM_{2.5}$ NAAQS designations promulgated in this action?

In this action, the EPA is designating as ''unclassifiable/attainment'' the lands of the Ak-Chin Indian Community located in Pinal County, Arizona, and the Gila River Indian Community, located in Pinal County and Maricopa County, Arizona, for the 2006 24-hour $PM_{2.5}$ NAAQS of 35 micrograms per cubic meter ($\mu g/m^3$). These areas of Indian Country and the designation for each area appear in the table at the end of this final rule, which amends 40 CFR 81.303.

The basis for establishing these areas as unclassifiable/attainment is monitored air quality data from 2009–2011 from nearby monitors that indicate the area is attaining the 2006 24-hour $PM_{2.5}$ NAAQS. The ''Cowtown'' monitor, which is located in the vicinity

[1] A correction to the February 3, 2011, final rule was published at 76 FR 14812 (March 18, 2011).

[2] By ''state lands'' we mean all land within the state boundary that is not within Indian Country, including privately and federally-owned land.

[3] 2007–2009 data also showed this area to be in violation of the 2006 24-hour $PM_{2.5}$ NAAQS, with a 2007–2009 design value of 40 $\mu g/m^3$.

of the lands of the Ak-Chin Indian Community and the Gila River Indian Community, previously violated the standard, leading to a nonattainment designation for state lands (West Central Pinal nonattainment area). In 2009, however, $PM_{2.5}$ values recorded at the Cowtown monitor dropped significantly and have remained below the level of the standard. The 2008–2010 24-hour $PM_{2.5}$ design value for the Cowtown monitor is 31μg/m^3 and for 2009–2011 is 26μg/m^3.[4] Therefore, the West Central Pinal nonattainment area is no longer violating the 2006 24-hour $PM_{2.5}$ NAAQS. No other monitor in Arizona is currently violating the 2006 24-hour $PM_{2.5}$ NAAQS.[5]

In October of 2009, the EPA notified the Governor of Arizona and tribal leaders of Tribes with areas of Indian Country located in Pinal and Maricopa counties that the Cowtown monitor in Pinal County was violating the 2006 24-hour $PM_{2.5}$ standards based on the most recent (2006–2008) air quality monitoring data at that time. Due to this new violation and the need for additional time to collect data and evaluate the area to determine an appropriate nonattainment area boundary, the EPA deferred the area designation of Pinal County, Maricopa County (the other county comprising the Phoenix-Mesa-Scottsdale core-based statistical area (CBSA)), the seven nearby counties (Cochise, Gila, Graham, La Paz, Pima, Yavapai and Yuma counties) surrounding the Phoenix-Mesa-Scottsdale CBSA,[6] and areas of Indian Country for the 2006 24-hour $PM_{2.5}$ standards. The EPA then followed the designations process set forth in section 107(d) of the CAA, which culminated in the creation of the West Central Pinal nonattainment area for the 2006 24-hour $PM_{2.5}$ NAAQS (76 FR 6056, February 3, 2011). Designations for nearby areas of Indian Country remained deferred to allow the completion of the tribal consultation process.

The Gila River Indian Community and the Ak-Chin Indian Community recommended that the EPA designate their lands ''attainment/unclassifiable'' on February 11, 2010, and September 2, 2010, respectively. On April 30, 2010, the EPA offered formal consultation to the leaders of the Ak-Chin Indian Community and the Gila River Indian Community and has discussed the $PM_{2.5}$ designation with the tribes on several occasions. On April 5, 2012,[7] the EPA contacted the Gila River Indian Community and on August 13, 2012,[8] the EPA contacted the Ak-Chin Indian Community to provide opportunities to discuss the intended designations of ''unclassifiable/attainment'' for their areas of Indian Country based on 2009–2011data. Both tribes subsequently indicated that no further consultation was necessary.

All correspondence and supporting documentation related to deferred final designations can be found in docket ID No. EPA–HQ–OAR–2007–0562.

IV. Where can I find information forming the basis for this rule and exchanges between the EPA and tribes related to this rule?

Information providing the basis for the action in this notice, including applicable EPA guidance memoranda, and copies of correspondence regarding this process between the EPA and the Tribes are available in the identified docket. All docket information is available for review at the EPA Docket Center listed above in the **ADDRESSES** section of this document and on our designation Web site at *http://www.epa.gov/pmdesignations/2006standards/index.htm.* Other related state and tribal-specific information is available at the offices of EPA Region 9.

V. Statutory and Executive Order Reviews

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate areas as attaining or not attaining the NAAQS. The CAA then specifies requirements for areas based on whether such areas are attaining or not attaining the NAAQS. In this final rule, the EPA assigns designations to areas as required.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action responds to the requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This type of action is exempt from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This rule responds to the requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This requirement is prescribed in the CAA section 107. The present final rule does not establish any new information collection requirements.

C. Regulatory Flexibility Act

This final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This rule is not subject to notice-and-comment requirements under the APA or any other statute because the rule is subject to CAA section 107(d)(2)(B), which does not require that the agency issue a notice of proposed rulemaking before issuing this rule.

D. Unfunded Mandates Reform Act

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. It

[4] *See* memorandum titled, ''Data Summary for Cowtown Monitor'' dated August 14, 2012, from Michael Flagg, EPA Region 9 Air Quality Analysis Office, to Ginger Vagenas, EPA Region 9 Air Planning Office, available in the docket for this action.

[5] *See* ''U.S. EPA Air Quality System Preliminary Design Value Report'' and map titled ''2009–2011 Design Values for the 2006 24-Hour Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards,'' available in the docket for this action.

[6] As described in the EPA's rule promulgating initial $PM_{2.5}$ designations for the 2006 24-hour standards, in evaluating areas potentially contributing to a monitored violation, the EPA examined those counties located in the surrounding metropolitan statistical area (in this case, Pinal and Maricopa counties), and those nearby counties one or two adjacent rings beyond. *See* ''Air Quality Designations for the 2006 24-hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards,'' 74 FR 58688, November 13, 2009, page 58694.

[7] *See* memorandum to file titled, ''Confirmation from Gila River Indian Community that Consultation Regarding 2006 24-hr $PM_{2.5}$ Designation is Complete'' dated August 21, 2012, from Colleen McKaughan, EPA Region 9 Associate Director Air Division, available in the docket for this action.

[8] *See* memorandum to file titled, ''Communication with Brenda Ball about Potential Consultation with Ak-Chin Regarding 2006 24-hr $PM_{2.5}$ Designation'' dated August 21, 2012, from Maeve Foley, EPA Region 9 Grants and Program Integration Office, available in the docket for this action.

does not create any additional requirements beyond those of the CAA and $PM_{2.5}$ NAAQS (40 CFR 50.13). The CAA establishes the process whereby states take primary responsibility in developing plans to meet the $PM_{2.5}$ NAAQS.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It 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, as specified in Executive Order 13132. The CAA establishes the process whereby states take primary responsibility in developing plans to meet the $PM_{2.5}$ NAAQS. This rule will not modify the relationship of the states and the EPA for purposes of developing programs to implement the $PM_{2.5}$ NAAQS. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have tribal implications because the areas of Indian Country affected by this rule are being designated as ''unclassifiable/attainment,'' and thus do not have a substantial cost or 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 tribes. The rule does not alter the relationship between the federal government and Tribes as established in the CAA and the TAR. Thus, Executive Order 13175 does not apply to this action.

However, because this action designates areas of Indian Country, the EPA consulted with tribal officials early in the process of developing this regulation to ensure meaningful and timely input into its development. At the beginning of the designations process, letters were sent to tribes expected to be impacted by designations for the 2006 24-hour $PM_{2.5}$ NAAQS. These letters not only informed the tribes of the overall designations process, but also offered consultation to ensure early communication and coordination. Additionally, letters were sent to potentially affected tribes indicating the EPA's intended designations for their areas of Indian Country. These letters offered an additional opportunity for consultation. All consultations were completed prior to promulgating this rule. During consultation, the primary concerns raised by tribes included the following: Impact of a potential nonattainment designation on future economic development; appropriateness of using data from monitors not on tribal land to characterize the air quality on tribal land; and ensuring final decisions are consistent with the EPA's ''Policy for Establishing Separate Air Quality Designations for Areas of Indian Country'' (December 20, 2011). During the consultation with the tribes affected by this regulatory action, the EPA's office in Region 9 ensured that the tribes fully understood the basis for the EPA's intended designations decisions and how those decisions are informed by the most recent certified air quality data and all other relevant information, including the EPA's ''Policy for Establishing Separate Air Quality Designations for Areas of Indian Country.'' To the extent possible, the EPA included the tribes' input into the final decision-making process for designations of their areas of Indian Country for the 2006 24-hour $PM_{2.5}$ NAAQS.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA of 1995, Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through the Office of Management and Budget, explanations when the agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the U.S.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because this rule does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act

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 U.S. The 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 U.S. 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). This rule will be effective November 26, 2012.

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia

Circuit: (i) When the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

This rule designating areas for the 2006 24-hour $PM_{2.5}$ NAAQS is ''nationally applicable'' within the meaning of section 307(b)(1). This rule establishes designations for certain areas for the 2006 24-hour $PM_{2.5}$ NAAQS. In addition, this action relates to the prior nationwide rulemakings in which the EPA promulgated designations for numerous other areas nationwide. At the core of this rulemaking is the EPA's interpretation of the definition of nonattainment under section 107(d)(1) of the CAA, and its application of that interpretation to areas across the country. In determining which areas should be designated ''nonattainment'' (or conversely, should be designated attainment or unclassifiable), the EPA used an analytical approach that it applied consistently across the U.S. in this rulemaking, and in the prior related rulemakings.

For the same reasons, the Administrator also is determining that the final designations are of nationwide scope and effect for the purposes of section 307(b)(1). In these circumstances, section 307(b)(1) calls for the Administrator to find the rule to be of ''nationwide scope or effect'' and for venue to be in the DC Circuit. Thus, any petitions for review of final designations must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: October 19, 2012.

Lisa P. Jackson,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 81, subpart C is amended as follows:

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 2. In § 81.303, the ''Arizona—$PM_{2.5}$ (24-hour NAAQS)'' table is amended by:

■ a. Revising the entry for ''Maricopa County''; and

■ b. Revising entries for ''Lands of the Gila River Indian Community in Pinal County'' and ''Lands of the Ak-Chin Indian Community''.

The revised text reads as follows:

§ 81.303 Arizona.

* * * * *

ARIZONA—$PM_{2.5}$ (24-HOUR NAAQS)

Designated area	Designation for the 1997 NAAQS [a]		Designation for the 2006 NAAQS [a]	
	Date [1]	Type	Date [2]	Type
*	*	*	*	*
Maricopa County (remainder, excluding lands of the Gila River Indian Community).		Unclassifiable/Attainment		Unclassifiable/Attainment.
*	*	*	*	*
Lands of the Gila River Indian Community in Pinal County and Maricopa County.		Unclassifiable/Attainment	11/26/2012	Unclassifiable/Attainment.
Lands of the Ak-Chin Indian Community in Pinal County.		Unclassifiable/Attainment	11/26/2012	Unclassifiable/Attainment.

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.
[2] This date is 30 days after November 13, 2009, unless otherwise noted.

[FR Doc. 2012–26405 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R07–RCRA–2012–0719; FRL–9744–4]

Missouri: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize states to operate their hazardous waste management programs in lieu of the Federal program. Missouri has applied to EPA for final authorization of the changes to its hazardous waste program under RCRA. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this immediate final action.

DATES: This Final authorization will become effective on December 26, 2012 unless EPA receives adverse written comment by November 26, 2012. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–RCRA–2012–0719, by one of the following methods:

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

2. *Email: jackson-johnson.berla@epa.gov*.

3. *Mail or Hand Delivery:* Berla Jackson-Johnson, Environmental Protection Agency, Waste Enforcement and Materials Management Branch, 11201 Renner Blvd., Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–RCRA–2012–0719. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information whose disclosure is restricted by statute will not be publically available. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, RCRA Enforcement and State Programs Branch, 11201 Renner Blvd., Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Berla Jackson-Johnson, AWMD WEMM, RCRA Enforcement and State Programs Branch, U.S. EPA Region VII, 11201 Renner Blvd., Lenexa, Kansas 66219, phone number (913) 551–7720; email address: *Jackson-Johnson.Berla@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Why are revisions to state program necessary?
B. What decisions has EPA made in this rule?
C. What is the effect of today's authorization decision?
D. Why wasn't there a proposed rule published before this rule?
E. What happens if EPA receives comments that oppose this action?
F. What has Missouri previously been authorized for?
G. What revisions are we authorizing with this action?
1. Program Revision Changes for Federal Rules
H. Where are the revised missouri rules different from the federal rule?
1. Rules for Which Missouri is not Seeking Authorization.
2. More Stringent Missouri Rules.
I. Who handles permits after the authorization takes effect?
J. How does this action affect Indian country (18 U.S.S. 115) in Missouri?
K. What is codification and is EPA codifying Missouri's hazardous waste program as authorized in this rule?

A. Why are revisions to state programs necessary?

States that have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with and no less stringent that the Federal program. As the Federal program changes, a state must change its program accordingly and ask EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, the state must change its program because of changes to EPA's regulations in 40 Code of Federal Regulations parts 124, 260 through 266, 268, 270, 273, and 279.

B. What decisions has EPA made in this rule?

EPA concludes that Missouri's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, EPA grants Missouri final authorization to operate its hazardous waste program with the changes described in the authorization application. Missouri has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian Country, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Missouri, including issuing permits, until Missouri is granted authorization to do so.

C. What is the effect of today's authorization decision?

This decision serves to authorize revisions to Missouri's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which Missouri is being authorized by this action are already effective and are not changed by this action. Missouri has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether Missouri has taken its own actions.

D. Why wasn't there a proposed rule published before this rule?

EPA did not publish a proposal before today's rule because EPA views this as a routine program change and we do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize Missouri's program revisions. If EPA receives comments that oppose this authorization, that document will serve as a proposal to authorize the revisions to Missouri's program that were the subject of adverse comment.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, EPA will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program revisions on the proposal mentioned in the previous section. EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If EPA receives comments that oppose the authorization of a particular revision to Missouri's hazardous waste program, we will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Missouri previously been authorized for?

Initially, Missouri received final authorization to implement its hazardous waste management program effective December 4, 1985 (50 FR 47740). EPA granted authorization for revisions to Missouri's regulatory program on February 27, 1989, effective April 28, 1989 (54 FR 8190); January 11, 1993, effective March 12, 1993 (58 FR 3497); and on May 30, 1997, effective July 30, 1997, (62 FR 29301) (document to correct the effective date of the rule to be consistent with section 801 and 808 of the Congressional Review Act, enacted as part of the Small Business Regulatory Enforcement Fairness Act). Additionally, the State adopted and applied for interim authorization for the corrective action portion of the HSWA Codification Rule (July 15, 1985, 50 FR 28702). For a full discussion of the HSWA Codification Rule, the reader is referred to the **Federal Register** cited above. The State was granted interim authorization for the corrective action on May 4, 1999, effective July 6, 1999 (64 FR 23780). Missouri received authorization for further revisions to its program on February 28, 2000, effective April 28, 2000 (65 FR 10405; October 1, 2011, effective November 30, 2001 (66 FR 49841); and on April 28, 2006 (71 FR 25079), effective June 27, 2006.

G. What revisions are we authorizing with this action?

On October 6, 2010, Missouri submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Missouri's revision application includes regulations that are equivalent to, and no less stringent than revisions to the Federal hazardous waste program, as published in the Code of Federal Regulations as of July 1, 2006, and the final rule published July 28, 2006, (71 FR 42928; effective January 29, 2007).

We now make an immediate final decision, subject to receipt of written comments that oppose this action that Missouri's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Missouri's authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

Missouri seeks authority to administer the Federal requirements that are listed in Table 1. This Table lists the Missouri analogs that are being recognized as no less stringent than the analogous Federal requirements. Missouri's regulatory references are to the Missouri Code of State Regulations, Title 10 Division 25, effective June 30, 2009.

The State's statutory authority for the hazardous waste program for which it is seeking authorization is based on the following provisions from the Revised Statutes of Missouri (RSMo), as amended through the 2009 Supplement: Revised Statutes of Missouri, Chapter 260, Section 260.003 and ''Missouri Hazardous Waste Management Law'' section 260.350 through 260.434. Missouri's authority to incorporate the Federal program is found at RSMo 536.031.

TABLE 1—MISSOURI'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous Missouri authority
RCRA Cluster XI		
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Revision Checklist 188.	65 FR 42292, 07/10/00; as amended 66 FR 24270, 5/14/01; and 66 FR 35087, 7/03/01.	10 CSR 25–4.261(2)(D)4; 7.264(1). *10 CSR 25–7.7270(2)(D)6 is excluded from the authorization because Missouri only partially excludes 270.42(j) (see Section H.1.g for discussion).
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes, Revision Checklist 189.	65 FR 67068, 11/8/00	10 CSR 25–4.261(1); 7.268(1).
Land disposal Restrictions Phase IV—Deferral for PCBs in Soil, Revision Checklist 190.	65 FR 81373, 12/26/00	10 CSR 25–7.268(1).
Storage, treatment, Transportation and Disposal of Mixed Waste, Revision Checklist 191.	66 FR 272218, 5/16/01	10 CSR 25–7.266(1).
Mixture and Derived—From Rules Revisions, Revision Checklist 192A.	66 FR 27266, 5/16/01	10 CSR 25–4.261(1).
Land disposal Restrictions Correction, Revision Checklist 192B.	66 FR 27266, 5/16/01	10 CSR 25–7.268(1).
Change of Official EPA Mailing Address, Revision Checklist 193.	66 FR 34374, 6/28/01	10 CSR 25–3.260(1).
RCRA Cluster XII		
Mixture and Derived From Rules Revision II, Revision Checklist 194.	66 FR 50332, 10/3/01; as amended 66 FR 60153, 12/3/01.	10 CSR 25–4.261(1).
Inorganic Chemical Manufacturing, revision Checklist 195.	66 FR 27266, 5/16/01	10 CSR 25–4.261(1).

TABLE 1—MISSOURI'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous Missouri authority
CAMU Amendments, Revision Checklist 196	67 FR 2962, 1/22/02	10 CSR 25–3.260(1).
Hazardous Air Pollutant Standards for Combustors: Interim Standards, Revision checklist 197.	67 FR 6792, 2/13/02	10 CSR 25–7.264(1); 7.265(1); 7.270(1)*.
RCRA Cluster XIII		
National Treatment Variance for Radioactively Contaminated Batteries, Revision Checklist 201.	67 FR 62618, 10/07/02	10 CSR 25–7.268(1).
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors—Corrections, Revision checklist 202.	67 FR 77687, 12/19/02	10 CSR 25–7.270(1).* *Missouri incorporates by reference the changes to Federal BIFs requirements for which Missouri is not authorized (see Section H.1.b for discussion).
RCRA Cluster XIV		
NEXHAP: Surface Coating of Automobiles and Light Duty Trucks, Revision Checklist 205.	69 FR 22601, 4/26/04	10 CSR 25–7.264(1); 7.265(1).
RCRA Cluster XV		
Nonwastewaters from Productions of Dyes, Pigments, and Food, Drug and cosmetic Colorants, Revision Checklist 206.	70 FR 9138, 2/24/05; as amended 70 FR 35032, 6/16/05.	10 CSR 25–4.261(1); 7.268(1).
Uniform Hazardous Waste Manifest final rules, Revision Checklist 207.	70 FR 10776; 3/04/05; as amended June 16, 2005 at 70 FR 35034.	10 CSR 25–3.260(1); 4.261(1); 5.262(1)*; 5.262(2)(B) except (2)(B)3**; 5.262(2)(C); 5.262(2)(E); 5.262(2)(F); 6.263(1)*; 6.263(2)(B1; 5.264(1)*; 7.264(2)(E)1; 5.265(1).* *Missouri incorporates the Federal provisions by reference without taking into considerations that the state cannot assume authority for certain EPA functions; EPA will continue to implement these functions (see Section H.1.a for discussion). **10 CSR 25–5.262(2)(B)(3) is not being authorized because it is related to state waste codes for used oil; Missouri is not authorized for the used oil program (see Section H.1.c for discussion).
Testing and Monitoring Activities: Methods Innovation Rule and SW–846 Update IIIB, Revision Checklist 208.	70 FR 34538, 6/14/05; as amended 70 FR 44150, 8/01/05.	10 CSR 25–3.260(1); 3.260(2)(c); 4.261(1); 4.261(2)(D)4; 7.264(1); 7.265(1); 7.266(1)*; 7.268(1); 7.270(1).* *Missouri has incorporated by reference the changes to Federal BIFs requirements for which Missouri is not authorized (see Section H.1.b. for discussion). ** Missouri has incorporated by reference the changes to 40 CFR Part 279 as indicated on Revision Checklist 208 without modification. However, Missouri cannot be authorized for changes to the used oil requirements because the State is not authorized for the used oil program (see Section H.1.c for discussion).
RCRA Cluster XVI		
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures, Revision Checklist 211.	70 FR 57769, 10/04/05	10 CSR 25–4.261(1).
National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Revision Checklist 212.	70 FR 59401, 10/12/05	10 CSR 25–3.260(1); 7.264(1); 7.266(1)*; 7.266(2)(H)1; 7.270(1).* *Missouri has incorporated by reference the changes to Federal BIFs requirements for which Missouri is not authorized (see Section H.1.b for discussion).

TABLE 1—MISSOURI'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous Missouri authority
Burden Reduction Initiative, Revision Checklist 213.	71 FR 16862, 4/04/06	**10 CSR 25–7.270(2)(D)6 is excluded from the authorization because Missouri only partially excludes 270.42(j)(see Section H.1.g for discussion). 10 CSR 25–3.260(1)**; 4.261(1); 4.261(2)(D)4; 7.264(1)**; 7.264(2)(B)3; 7.264(2)(E)2; 7.264(2)(W); 7.265(1)**; 7.265(2)(B); 7.265(2)(W); 7.266(1)*; 7.268(1); 7.270(1)**; 7.270(2)(D)7. *Missouri has incorporated by reference the changes to Federal BIFs requirements for which Missouri is not authorized (see Section H.1.b for discussion). ** Missouri is not being authorized for the definition of "Performance Track member facility", or the changes made by this final rule relative to the terminated Performance track program at 40 CFR 270.42, Appendix I, Item O (see section H.1.e for discussion).
RCRA Cluster XVII		
Cathode Ray Tubes Rule, Revision Checklist 215.	71 FR 42928, 7/28/06	10 CSR 25–3.260(1); 4.261(1)*; 4.261(2)(d)4; 4.261(2)(E)1. *Missouri incorporates the Federal provisions by reference without taking into consideration that the State cannot assume authority for 40 CFR 261.39(a)(5), which addresses the notification requirements and other EPA functions relative to the exports of CRTs (see Section H.1.a for discussion).

[1] A Revision Checklist is a document that addresses the specific revisions made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist states in developing their authorization applications and in documenting specific state analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization Web page at *http://www.epa.gov/osw/laws-regs/state/index.htm.*

H. Where are the revised Missouri rules different from the Federal rules?

1. Rules for Which Missouri is Not Seeking Authorization

Missouri is not being authorized for the following RCRA revisions that are found in 40 CFR as of July 1, 2006:

(a) Missouri is not seeking authorization for, and has appropriately left authority with EPA, for the majority of the non-delegable Federal rules that address specific functions for which EPA must retain authority, including treatment standards variances at 40 CFR 268.44(a)–(g) and hazardous waste imports and exports (40 CFR part 262, subparts E and H and other related requirements). However, Missouri has not left authority to EPA for the non-delegable provisions at: 40 CFR 261.39(a)(5)(exports of cathode ray tubes); 40 CFR 262.21 (Manifest Registry); 40 CFR 262.60(c), (d) and (e) (40 CFR part 262, subpart F export requirements); and 40 CFR 263.20(g)(4), 264.71(a)(3), and 265.71(a)(3)(Manifest copies for imports and exports of hazardous waste). EPA will continue to implement these requirements as appropriate.

(b) Missouri has adopted but has sought formal authorization and is not being authorized for the portions of the Federal program addressing the Burning of Hazardous Waste in Boilers and Industrial Furnaces (BIFs) that were introduced into the Federal code by a February 21, 1991 final rule (56 FR 7134; Revision Checklist 85) and subsequently amended by the following Federal rules: July 17, 1991 (56 FR 32688; revision Checklist 94); August 27, 1991 (56 FR 42504; Revision Checklist 96); September 5, 1991 (56 FR 43874; Revision Checklist 98); August 25, 1992 (57 FR 38558; Revision Checklist 111); September 30, 1992 (57 FR 44999; Revision Checklist 114); November 9, 1993 (58 FR 59598; Revision Checklist 127); and April 15, 1998 (63 FR 18504; Revision Checklist 164). As noted in the table in Section G, several of the final rules for which Missouri is receiving authorization address hazardous waste combustors and affect provisions from 40 CFR part 266, subpart H, 270.22 and 270.66 that apply to the requirements for boilers and industrial furnaces. Missouri is not receiving authorization for these BIF provisions as part of this authorization.

(c) Missouri has adopted but has not sought formal authorization and is not being authorized for the Universal Waste and Oil programs (40 CFR parts 273 and 279) as addressed by the following final rules: Used Oil—September 10, 1992 (57 FR 41566; Revision Checklist 112); May 13, 1993 as amended on June 17, 1993 (58 FR 26420 and 58 FR 33341; Revision Checklist 122); March 4, 1994 (59 FR 10550; Revision Checklist 130); May 6, 1998 as amended on July 14, 1998 (63 FR 24963 and 63 FR 37780; Revision Checklist 166); and July 30, 2003 (68 FR 44659; Revision Checklist 203); and Universal Waste—May 11, 1995 (60 FR 25492; Revision Checklist 142A– E); December 24, 1998 (63 FR 71225 Revision Checklist 176); July 6, 1999 (64 FR 36466; Revision Checklist 181); and August 5, 2005 (70 FR 45508; Revision Checklist 209).

(d) Missouri has adopted but has not sought formal authorization and is not being authorized for the RCRA Expanded Public Participation

requirements introduced by the final rule published on December 11, 1995 (60 FR 63417; Revision Checklist 148).

(e) Missouri is not seeking authorization for the National Environmental Performance Track Program (April 22, 2004, 69 FR 21737; as amended October 25, 2004, 69 FR 62217; Revision Checklist 204). On May 14, 2009, EPA terminated the National Performance Track Program. In addition, Missouri has adopted but is not being authorized for the April 4, 2006 (71 FR 16862; revision Checklist 213) changes relative to the Performance Track program.

(f) Missouri has chosen not to adopt nor seek authorization for the final rules that make up the Wood Preserving Listings; however, in its incorporation by reference of 40 CFR part 261 at 10 CSR 25–4.261(1), Missouri has not excluded the changes addressed by the following Wood Preserving Listings final rules: July 1, 1991 (56 FR 30192; Revision Checklist 92), December 24, 1992 (57 FR 61492; Revision Checklist 120) and May 26, 1998 (63 FR 28556; Revision Checklist 167F). Similarly, Missouri has not excluded the final rule addressed by Revision Checklist 92 from its incorporation by reference of 40 CFR part 262 at 10 CSR 25–5.262(1).

(g) At 10 CSR 25–7.270(2)(D)6., Missouri excludes 40 CFR 270.42(j)(1) and (j)(2) from the incorporation by reference of 40 CFR part 270. To be consistent with the Federal program, Missouri needs to amend the language at 10 CSR 25–7.270(2)(D)6 to exclude the entire 270.42(j). Due to this error the Missouri provision is being excluded from the authorization of the final rules addressed by Revision Checklists 188 and 212.

2. More Stringent Missouri Rules

The Missouri hazardous waste program contains some provisions that are more stringent than is required by the RCRA program as codified in the July 1, 2006 edition of title 40 of the Code of Federal Regulations. These more stringent provisions are being recognized as a part of the Federally-authorized program. The specific more stringent provisions are also noted in Missouri's authorization application. They include, but are not limited to, the following:

(a) At 10 CSR 25–5.262(2)(B) 1 and 2, Missouri is more stringent because the State requires generators to list the Missouri-specific acute hazardous waste code MH01 or MH02, as applicable, for wastes that are not regulated as acute hazardous wastes under the Federal program.

(b) At 10 CSR 25–5.262(2)(E), Missouri is more stringent in that the State requires that all documents sent to EPA in compliance with 40 CFR 262.54(c) and (e), also be sent to the Missouri Department of Natural Resources.

(c) At 10 CSR 25–5.262(2)(F), Missouri is more stringent because it includes several state-specific requirements with which United States importers must also comply including registering as a Missouri generator and additional recordkeeping requirements.

(d) At 10 CSR 25–6.263(2)(B)1, Missouri has adopted language in lieu of the Federal provisions at 40 CFR 263.20(a) that is more stringent than the Federal language including requirements related to the licensing of transporters and recordkeeping requirements for conditionally exempt small quantity generator waste.

(e) At 10 CSR 25–7.264(2)(E)1 and 2, in addition to the Federal requirements incorporated by reference at 10 CSR 25–7.264(1), Missouri is more stringent in that the state requires additional recordkeeping requirements for Treatment Storage and Disposal Facilities including the requirement to submit copies of manifests to the State.

I. Who handles permits after the authorization takes effect?

After authorization, Missouri will issue permits for all the provisions for which it is authorized and will administer the permits issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that we issued prior to the effective date of this authorization. Until such time as formal transfer of EPA permit responsibility to Missouri occurs and EPA terminates its permit, EPA and Missouri agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Missouri is not yet authorized.

J. How does this action affect Indian country (18 U.S.S. 115) in Missouri?

Missouri is not seeking authorization to operate the program on Indian lands, since there are no Federally-recognized Indian lands in Missouri.

K. What is codification and is EPA Codifying Missouri's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR 272, subpart AA for this authorization of Missouri's program changes until a later date.

Statutory and Executive Order Reviews

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). For the same reason, this action would not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally-recognized tribes in the State of Missouri.

This action 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks that may disproportionately affect children. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant

regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application to require the use of any particular voluntary consensus standard, in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 3701, *et seq.*) do not apply. As required by section 3 of Executive Order 12988 (61 Fr 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 document and other required information to the U.S. Senate, the U.S. House of representatives and the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This is not a ''major rule'' as defined by U.S.C. 804(2); this action will be effective December 26, 2012.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 202(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 11, 2012.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2012–26430 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 11–116 and 09–158; CC Docket No. 98–170; FCC 12–42]

Empowering Consumers To Prevent and Detect Billing for Unauthorized Charges (''Cramming''); Consumer Information and Disclosure; Truth-in-Billing Format

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's document Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (''Cramming''); Consumer Information and Disclosure; Truth-in-Billing Format. This notice is consistent with the *Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective dates of those sections.

DATES: The amendments to 47 CFR 64.2401(a)(3) published at 77 FR 30915, May 24, 2012, is effective December 26, 2012, to 47 CFR 64.2401(f), published at 77 FR 30915, May 24, 2012, is effective November 13, 2012 with respect to disclosures at points of sale and on carriers' Web sites, and is effective December 26, 2012 with respect to disclosures on each telephone bill.

FOR FURTHER INFORMATION CONTACT: Melissa Conway, *Melissa.Conway@fcc.gov* or (202) 418–2887, of the Consumer and Governmental Affairs Bureau.

SUPPLEMENTARY INFORMATION: This document announces that, on October 15, 2012, OMB approved, for a period of three years, the information collection requirements contained in the Commission's *Report and Order,* FCC 12–42, published at 77 FR 30915, May 24, 2012. The OMB Control Number is 3060–0854. The Commission publishes this notice as an announcement of the effective dates of those modified sections. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0854, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on October 15, 2012, for the information collection requirements contained in the Commission's modified rules at 47 CFR 64.2401(a)(3) and (f).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0854.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0854.

OMB Approval Date: October 15, 2012.

OMB Expiration Date: October 31, 2015.

Title: Section 64.2401, Truth-in-Billing Format, CC Docket No. 98–170 and CG Docket No. 04–208.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,484 respondents; 36,090 responses.

Estimated Time per Response: 2 to 243 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is found at section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. 201(b), and section 258, 47 U.S.C. 258, Public Law 104–104, 110 Stat. 56. The Commission's implementing rules are codified at 47 CFR 64.2400–01.

Total Annual Burden: 2,074,174 hours.

Total Annual Cost: $15,918,200.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: In 1999, the Commission released the *Truth-in-Billing and Billing Format,* CC Docket No. 98–170, First Report and Order and Further Notice of Proposed Rulemaking, (*1999 TIB Order*); published at 64 FR 34488, June 25, 1999, which adopted principles and guidelines designed to reduce telecommunications fraud, such as slamming and cramming, by making bills easier for consumers to read and understand, and thereby, making such fraud easier to detect and report. In 2000, *Truth-in-Billing and Billing Format,* CC Docket No. 98–170, Order on Reconsideration, (*2000 Reconsideration Order*); published at 65 FR 43251, July 13, 2000, the Commission, granted in part petitions for reconsideration of the requirements that bills highlight new service providers and prominently display inquiry contact numbers. On March 18, 2005, the Commission released *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing,* Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, CC Docket No. 98–170, CG Docket No. 04–208, (*2005 Second Report and Order and Second Further Notice*); published at 70 FR 29979, May 25, 2005, and at 70 FR 30044, May 25, 2005, which determined, *inter alia,* that Commercial Mobile Radio Service providers no longer should be exempted from 47 CFR 64.2401(b), which requires billing descriptions to be brief, clear, non-misleading and in plain language. The *2005 Second Further Notice* proposed and sought comment on measures to enhance the ability of consumers to make informed choices among competitive telecommunications service providers.

On April 27, 2012, the Commission released the *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (''Cramming''),* Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 11–116, CG Docket No. 09–158, CC Docket No. 98–170, FCC 12–42 (*Cramming Report and Order and Further Notice of Proposed Rulemaking*); published at 77 FR 30915, May 24, 2012, and at 77 FR 30972, May 24, 2012, which determined that additional rules are needed to help consumers prevent and detect the placement of unauthorized charges on their telephone bills, an unlawful and fraudulent practice commonly referred to as ''cramming.''

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–26421 Filed 10–25–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

[Docket No. FWS–HQ–LE–2012–0091; FF09L00200–FX.LE12240900000G2]

RIN 1018–AZ18

Importation, Exportation, and Transportation of Wildlife; User Fee Exemption Program for Low-Risk Importations and Exportations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Interim rule.

SUMMARY: The Service is changing the inspection fees required for imports and exports of wildlife by certain licensed businesses. Our regulations set forth the fees that are required to be paid at the time of inspection of imports and exports of wildlife. In 2009, we implemented a new user fee system intended to recover the costs of the compliance portion of the wildlife inspection program. Since that time, we have been made aware that we may have placed an undue economic burden on businesses that exclusively trade in small volumes of low-value, non-Federally protected wildlife parts and products. To address this issue, the Service is implementing a program that exempts certain businesses from the designated port base inspection fees as an interim measure while the Service reassesses its current user fee system.

DATES: This interim final rule is effective October 26, 2012. However, we will accept comments on this interim rule and the information collection requirements contained in this interim rule received or postmarked on or before December 26, 2012.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking portal at: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–HQ–LE–2012–0091.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–LE–2012–0091; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Mailstop 2042–PDM; Arlington, VA 22203.

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 to us (see the Public Comments section below for more information).

Send comments on the information collection requirements contained in this interim rule to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, MS 2042–PDM, Arlington, VA 22203 (mail); or *INFOCOL@fws.gov* (email).

FOR FURTHER INFORMATION CONTACT: Kevin Garlick, Special Agent in Charge, Branch of Investigations, Office of Law Enforcement, U.S. Fish and Wildlife Service, telephone (703) 358–1949, fax (703) 358–1947.

SUPPLEMENTARY INFORMATION:

Previous Federal Action

On December 9, 2008, we published a final rule to clarify the import/export license and fee requirements, adjust the user fee schedule, and update license and user fee exemptions (73 FR 74615). This final rule became effective on January 8, 2009.

Background

The U.S. Fish and Wildlife Service has oversight responsibilities under statutory and regulatory authority to regulate the importation, exportation, and transportation of wildlife. Consistent with this authority, we have established an inspection program to oversee the importation, exportation,

and transportation of wildlife and wildlife products. In support of our program activities, we promulgated regulations contained in title 50 of the Code of Federal Regulations in part 14 (50 CFR part 14) to provide individuals and businesses with guidelines and procedures to follow when importing or exporting wildlife, including parts and products. These regulations explain the requirements for individuals or businesses importing or exporting wildlife for commercial purposes, or for people moving their household goods, personal items, or pets, as well as the exemptions provided for specific activities or types of wildlife. The regulations at 50 CFR part 14 identify the specific ports and locations where these activities may be conducted and any fees that may be charged as a result of these activities.

On December 9, 2008, the Service published a final rule (73 FR 74615) implementing a new user fee system intended to recover the costs of the compliance portion of the wildlife inspection program. In developing the user fee system, the Service was guided by the Independent Offices Appropriations Act of 1952, codified at 31 U.S.C. 9701 (''the User Fee Statute''), which mandates that services provided by Federal agencies are to be ''self-sustaining to the extent possible.'' We were also guided by the Office of Management and Budget (OMB) Circular No. A–25, Federal user fee policy, which establishes Federal policy regarding fees assessed for government services. It provides that user fees will be sufficient to recover the full cost to the Federal Government of providing the service, will be based on market prices, and will be collected in advance of, or simultaneously with, the rendering of services. The policy requires Federal agencies to recoup the costs of ''special services'' that provide benefits to identifiable recipients. The Endangered Species Act (16 U.S.C. 1540(f)) also authorizes the Service to charge and retain reasonable fees for processing applications and for performing reasonable inspections of importation, exportation, and transportation of wildlife. The benefit of user fees is the shift in the payment for services from taxpayers as a whole to those persons who are receiving the government services.

The user fees currently apply primarily to commercial importers and exporters whose shipments of wildlife are declared to, and inspected and cleared by, Service wildlife inspectors, to ensure compliance with wildlife protection laws. These fees were not intended to fully fund the wildlife inspection program, which includes both a compliance monitoring function, involving services to the trade community, and a vital smuggling interdiction mission focused on detecting and disrupting illegal wildlife trade. The user fees appropriately focus only on recovering costs associated with services provided to importers and exporters engaged in legal wildlife trade. The inspection and clearance of wildlife imports and exports is a special service, provided to importers and exporters who are authorized to engage in activities not otherwise authorized for the general public. Our ability to effectively provide these inspection and clearance services and the necessary support for these services depends on inspection fees.

In developing the user fee rule, we analyzed the actual total costs of providing services to the legal wildlife trade community during fiscal year 2005, as compared to the actual total money that we collected for activities authorized by the wildlife inspection program during fiscal year 2005. The total costs include wildlife inspector salaries and benefits, the appropriate portion of our managers' salaries and benefits, direct costs such as vehicle operation and maintenance, equipment purchase and replacement, data entry and computer support for the Service's electronic filing system, communications costs, office supplies, uniforms, and administrative costs and indirect costs such as office space. It was readily apparent that total inspection fees collected in 2005 fell well below the total costs associated with the wildlife trade compliance program during fiscal year 2005. The user fee system was developed to recover costs over a 5-year period that ended in 2012 with the understanding that the 2012 fee schedule would continue to be used until the Service could complete a new economic assessment. Unforeseen administrative delays have resulted in postponement of this effort.

However, since implementation of the new user fee system, we have been made aware that we might have placed an undue economic burden on businesses that exclusively trade in small volumes of low-value, non-Federally protected wildlife parts and products. The continued expansion of the internet as a tool for commerce has made it not only possible, but imperative, in recent years for more and more businesses—especially small businesses—to sell directly to individual consumers. In the context of this business model, costs such as wildlife import/export inspection fees can be the tipping factor in the profitability and resulting viability of such business transactions. Global consumers increasingly expect to be able to order whatever they want whenever they want it from anywhere in the world, but some businesses dealing in small volumes of low-value wildlife products have been stymied in their ability to capitalize on, and compete in, these growing overseas markets.

The Service conducted a review of import/export data in the Law Enforcement Management Information System (LEMIS) for shipments imported or exported between 2009 and 2011. Almost half of the more than 10,000 licensed businesses were exclusively importing or exporting wildlife that was not living, was not injurious, and did not require a permit or certificate under Federal wildlife laws. These businesses are required to pay the designated port base inspection fee, currently assessed at $93, for each import or export. Because of the nature of the wildlife, they do not pay the higher premium inspection fees for live or protected species.

A further review of these nonliving, non-Federally protected wildlife shipments revealed that approximately 1,000 businesses exclusively imported or exported shipments the Service would consider to be small and of low value. The Service explored the value of shipments for which U.S. Customs and Border Protection currently allows informal declaration as part of the analysis of what could be considered a small shipment. The customs informal value is currently $2,000 except for most textile shipments, which must be valued at $250 or less. Based upon the review of the 2009–2011 LEMIS data, the Service decided to use a quantity of 25 as the upper limit on quantity of wildlife parts and products when a shipment was valued at $5,000 or less. The 2009–2011 import/export data showed that shipment contents ranged in quantity from 1 to 25 wildlife items or specimens when the shipment had a total value of $5,000 or less. Our analysis showed that increasing the number of specimens per shipment drives per-shipment value beyond a threshold that could reasonably be considered ''low value.'' The designated port base inspection fee of $93 could be considered excessive compared to the value of shipments worth $5,000 or less.

Service enforcement priorities establish that enforcement of Federal laws and regulations related to violations involving the import or export of non-Federal trust species of fish or wildlife is low priority. Because

our analysis indicates an undue economic burden may have been placed on businesses importing or exporting small volumes of low-value wildlife parts and products that are considered to be low risk for the Service, we have created a user fee exemption program as an interim measure while we work on a new economic analysis and determine any changes needed to the current user fee structure.

With this rule, businesses that possess a valid Service import/export license may request to participate in this fee exemption program through our electronic filing system (eDecs). Qualified licensees will need to create an eDecs filer account as an importer or exporter if they do not already have one and file their required documents electronically. In order to be an approved participating business in the program and receive an exemption from the designated port base inspection fee, the licensed business will need to certify that it will exclusively import or export nonliving wildlife that is not listed as injurious under 50 CFR part 16 and does not require a permit or certificate under 50 CFR parts 15 (Wild Bird Conservation Act), 17 (Endangered Species Act), 18 (Marine Mammal Protection Act), 20 (Migratory Bird Treaty Act), 21 (Migratory Bird Treaty Act), 22 (Bald and Golden Eagle Protection Act), or 23 (the Convention on International Trade in Endangered Species of Wild Fauna and Flora). The requesting business will also need to certify that it will exclusively import or export the above type of wildlife shipments where the quantity in each shipment of wildlife parts or products is 25 or fewer and the total value of each wildlife shipment is $5,000 or less.

Any licensed business that has more than two wildlife shipments that were refused clearance in the 5 years prior to its request is not eligible for the program. In addition, any licensees that have been assessed a civil penalty, issued a Notice of Violation, or convicted of a misdemeanor or felony violation involving wildlife import or export will not be eligible to participate in the program. If an approved business fails to meet these criteria while participating in the program, the business will be removed from the program. While such a business would still be able to import or export wildlife, it would need to pay the applicable designated port base inspection fees for its shipments.

Need for an Interim Rule

The current wildlife inspection fee schedule, which went into place at the beginning of 2009, was developed under the premise that all commercial entities engaged in wildlife trade should pay the actual costs of inspection services received. While implemented in January 2009, these regulations had initially been developed over a multiyear period beginning in 2006. They were thus predicated upon economic conditions that were changing in dramatic ways as the rulemaking process came to fruition.

Changing economic conditions have created a situation that may have unfairly disadvantaged smaller businesses without serving the interests of wildlife conservation. This situation was magnified with each year of the established fee schedule since 2009 as planned fee adjustments occurred in order to meet the goal of recovering the full costs of the wildlife inspection program from the businesses that engage in wildlife trade.

Under that schedule, the minimum fee for the inspection of a ''routine'' shipment that contains nonliving products made from species that move freely in trade (i.e., do not require a permit under Federal wildlife regulations and are not listed as injurious) now stands at $93. This cost must be paid regardless of the value or size of the shipment.

Some importers and exporters shipping small shipments (shipments containing 1 to 25 items made from wildlife) have been able to absorb this cost without undue hardship by consolidating shipments, passing on costs to consumers, and making other adjustments in business practices. Other companies shipping small shipments have not readily been able to make such adjustments.

These businesses have seen their per-shipment inspection fee increase steadily as a percentage of the value of the commodity being shipped. This escalation has taken place at a time when—because of the global economic downturn that followed on the heels of the 2008 U.S. financial crisis—businesses have not been able to make concomitant increases in retail prices paid by the consumer. In some cases, the inspection fee may even exceed the value of the product being shipped. With these inspection fees, some of these companies may no longer find it profitable to market their products overseas.

The Service's inspection fee schedule may have resulted in inordinate and unsustainable inspection costs for imports and exports that have disproportionately undercut the ability of certain businesses to respond to growing pressure to deal directly with consumers via internet-based purchases and other small shipping practices and do so profitably.

In adopting the 2008–2012 inspection fee schedule, the Service had assumed that it would be able to conduct routine reanalysis and adjustment of wildlife inspection fees so as to implement new fees reflective of economic realities that would be in place at the end of that 5-year period. Unforeseen administrative delays have resulted in the postponement of this effort and made it impossible for the Service to adjust for any unforeseen impact of its fee structure on certain U.S. businesses through the standard rulemaking procedure. Moreover, any impacts to businesses engaged primarily in low-volume shipments of wildlife have been magnified by the economic downturn. Under the Administrative Procedure Act (5 U.S.C. 551–553), our normal practice is to publish regulations with a 30-day delay in effective date. But in this case, the Service is taking immediate action to address this possible fee inequity in advance of a planned reassessment of its wildlife inspection user fee schedule. We are using the ''good cause'' exemptions under 5 U.S.C. 553(b) and (d)(3) to issue this rule without first invoking the usual notice and public comment procedure and to make this rule effective upon publication.

The ''good cause'' exemption is particularly relevant here because, as the Service begins the process for reexamining its fee structure, it needs to collect data regarding both the impact of changing the user fee structure on the business community and its ability to fully fund the wildlife inspection program. This interim rule will allow the Service to collect data with relatively low risk to the conservation goals of the Service and assist at least some businesses that may be currently experiencing an undue economic hardship. This interim rule does not add requirements on anyone; it merely relaxes fee requirements on as many as 1,000 licensees while more data are gathered. The Service is committed to finalizing this rule after careful consideration of both public comments and collection of additional data.[1]

[1] Including, for example, *American Transfer & Storage Co.* v. *Interstate Commerce Com.,* 719 F.2d 1283, 1293–94 (5th Cir. 1983) (''* * * without interim rules before the final rules took effect, the Commission would have been deprived of useful knowledge and experience gained in observing how alternative procedures worked under the new MCA while considering other methods suggested by the public comments to the interim rules.); *National Customs Brokers & Forwarders Ass'n of Am.* v. *United States,* 18 C.I.T. 754, see 764 and 765 (1994) (Customs' ''good cause'' exception argument pursuant to § 553(b)(3)(B) is reasonable based on the

Continued

Public Comments

You may submit your comments and materials concerning this interim rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Office of Law Enforcement (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget 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.

context within which these regulations were promulgated. The ''good cause'' exception is fact or context-dependent. *Mid-Tex Elec. Coop., Inc.* v. *Federal Energy Regulatory Comm'n,* 822 F.2d 1123, 1132 (D.C. Cir. 1987). The interim status of the challenged regulations is a significant factor in the Court's conclusion.).

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Essentially all of the businesses that engage in commerce by importing or exporting wildlife or wildlife products would be considered small businesses according to the Small Business Administration. While this rule will have a beneficial economic effect on certain small businesses, we do not believe it will have a significant economic effect on a substantial number of small businesses as defined under the Regulatory Flexibility Act. Our data indicate that approximately 1,000 of more than 10,000 licensed businesses could take advantage of the economic benefits provided by this fee exemption program. We do not believe that a Small Entity Compliance Guide is required because we have developed a user-friendly process of self-certification to obtain the benefits of this program.

Service enforcement priorities establish that enforcement of Federal laws and regulations related to violations involving the import or export of non-Federal trust species of fish or wildlife is low priority. Because an undue economic burden may have been placed on businesses importing or exporting small volumes of low-value wildlife parts and products that are considered to be low risk for the Service, we have created a fee exemption program for low-risk importations and exportations as an interim measure while we work on a new economic analysis and determine any changes needed to the current user fee structure.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

This interim rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act as it will not have an annual effect on the economy of $100 million or more. Moreover, this rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; in fact, it will decrease costs to certain businesses. This interim rule will reduce costs by creating a user fee exemption program for low-risk importations and exportations as an interim measure while we work on a new economic analysis and determine any changes needed to the current user fee structure.

Finally, this rule will not have significant negative effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based companies to compete with foreign-based companies: It will have the opposite effect. The continued expansion of the internet as a tool for commerce has made it not only possible, but imperative, in recent years for more and more businesses—especially small businesses—to sell directly to individual consumers. In the context of this business model, costs such as wildlife import/export inspection fees can be a tipping factor in the profitability and resulting viability of such business transactions. Global consumers increasingly expect to be able to order whatever they want whenever they want it from anywhere in the world, but some businesses dealing in wildlife products have been stymied in their ability to capitalize on, and compete in, these growing overseas markets.

With this interim rule, businesses that possess a valid Service import/export license may request to participate in a fee exemption program through our electronic filing system, thereby stimulating competition, employment, investment, productivity, innovation, and the ability for U.S.-based companies to compete with foreign-based companies.

Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*)

Under the Unfunded Mandates Reform Act:

a. This interim rule will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. We are the lead Federal agency for implementing regulations that govern and monitor the importation and exportation of wildlife. Therefore, this interim rule has no effect on small governments' responsibilities.

b. This interim rule will not produce a Federal requirement that may result in the combined expenditure by State, local, or tribal governments of $100 million or greater in any year, so it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. This interim rule will not result in any combined expenditure by State, local, or tribal governments. The inspection program for imported and exported wildlife products is solely a Federal responsibility.

Executive Order 12630 (Takings)

Under Executive Order 12630, this interim rule does not have significant takings implications. A takings implication evaluation is not required. Under Executive Order 12630, this interim rule does not affect any constitutionally protected property rights. This interim rule will not result in the physical occupancy of property,

the physical invasion of property, or the regulatory taking of any property.

Executive Order 13132 (Federalism)

Under Executive Order 13132, this interim rule does not have significant Federalism effects. A Federalism impact summary statement is not required. This interim rule will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The inspection program for imported and exported wildlife products is solely a Federal responsibility.

Executive Order 12988 (Civil Justice Reform)

Under Executive Order 12988, the Office of the Solicitor has determined that this interim rule does not overly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this interim rule has been reviewed to eliminate errors and ensure clarity, has been written to minimize disagreements, provides a clear legal standard for affected actions, and specifies in clear language the effect on existing Federal law or regulation.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. The Office of Management and Budget (OMB) has approved the information collection requirements regarding the submission of FWS Form 3–177 electronically through our eDecs system, and assigned OMB Control Number 1018–0012, which expires on March 31, 2013. On October 3, 2012, we published in the **Federal Register** (77 FR 60454) a notice of our intent to request that OMB renew approval for that information collection. In that notice, we solicited comments for 60 days, ending on December 3, 2012.

This interim rule contains a new collection of information that we submitted to OMB for emergency review and approval under Sec. 3507(d) of the Paperwork Reduction Act (PRA). Because our analysis indicates an undue economic burden may have been placed on businesses importing or exporting small volumes of low-value wildlife parts and products that are considered to be low risk for the Service, we have created a user fee exemption program as an interim measure while we work on a new economic analysis and determine any changes needed to the current user fee structure.

With this interim rule, businesses that possess a valid Service import/export license may request to participate in this fee exemption program through our electronic filing system (eDecs). Qualified licensees will need to create an eDecs filer account as an importer or exporter if they do not already have one and file their required documents electronically. To be an approved participating business in the program and receive an exemption from the designated port base inspection fee, the licensed business will need to certify that it will exclusively import or export nonliving wildlife that is not listed as injurious under 50 CFR part 16 and does not require a permit or certificate under 50 CFR parts 15 (Wild Bird Conservation Act), 17 (Endangered Species Act), 18 (Marine Mammal Protection Act), 20 (Migratory Bird Treaty Act), 21 (Migratory Bird Treaty Act), 22 (Bald and Golden Eagle Protection Act), or 23 (the Convention on International Trade in Endangered Species of Wild Fauna and Flora). The requesting business will also need to certify that it will exclusively import or export the above type of wildlife shipments where the quantity in each shipment of wildlife parts or products is 25 or fewer and the total value of each wildlife shipment is $5,000 or less. Any licensed business that has more than two wildlife shipments that were refused clearance in the 5 years prior to its request is not eligible for the program. In addition, any licensees that have been assessed a civil penalty, issued a Notice of Violation, or convicted of a misdemeanor or felony violation involving wildlife import or export will not be eligible to participate in the program.

We requested that OMB assign a new number for the fee exemption program. OMB approved our request for emergency approval and assigned OMB Control No. 1018–0152, which expires April 30, 2013.

OMB Control No.: 1018–0152.

Title: User Fee Exemption Program for Low-Risk Importations and Exportations, 50 CFR 14.94(k)(4).

Service Form Number: None.

Description of Respondents: Businesses that exclusively trade in small volumes of low-value, non-Federally protected wildlife parts and products.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Annual Number of Responses: 1,000.

Completion Time per Response: 1 minute.

Total Annual Burden Hours: 17 hours.

We will incorporate the burden associated with the fee exemption program into our renewal of OMB Control No. 1018–0012. When OMB approves our renewal, we will discontinue the new OMB control number.

As part of our continuing efforts to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting burden associated with the user fee exemption program. We specifically invite comments concerning:

- Whether or not the collection of information is necessary for the proper performance of our management functions involving CITES, 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.

If you wish to comment on the information collection requirements of this interim rule, send your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, MS 2042–PDM, Arlington, VA 22203 (mail); or *INFOCOL@fws.gov* (email).

National Environmental Policy Act

This interim rule has been analyzed under the criteria of the National Environmental Policy Act (NEPA). This interim rule does not amount to a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/evaluation is not required. This interim rule is categorically excluded from further NEPA requirements under part 516 of the Departmental Manual, Chapter 2, Appendix 1.10. This categorical exclusion addresses policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature and whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis under NEPA.

Executive Order 13175 (Tribal Consultation) and 512 DM 2 (Government-to-Government Relationship With Tribes)

Under the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no adverse effects. Individual tribal members must meet the same regulatory requirements as other individuals who import or export wildlife.

Executive Order 13211 (Energy Supply, Distribution, or Use)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking actions that significantly affect energy supply, distribution, and use. This interim rule will create a user fee exemption program for certain low-risk importations and exportations as an interim measure while we work on a new economic analysis and determine any changes needed to the current user fee structure. This interim rule is not a significant regulatory action under Executive Order 12866, and it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons described above, we amend part 14, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below.

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

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

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

■ 2. Amend § 14.94 by adding paragraph (k)(4) to read as follows:

§ 14.94 What fees apply to me?

* * * * *

(k) * * *

(4) *Fee exemption program for low-risk importations and exportations*—(i) *Program criteria.* Businesses that require an import/export license under § 14.93 may be exempt from the designated port base inspection fee as set forth in this paragraph (k)(4)(i). To participate in this program, you, the U.S. importer or exporter, must continue to pay the overtime fees, the nondesignated port base fees, or the import/export license and nondesignated port application fees, and your business must meet all of the following conditions:

(A) Each shipment does not contain live wildlife.

(B) Each shipment does not contain wildlife that requires a permit or certificate under parts 15, 17, 18, 20, 21, 22, or 23 of this chapter or is listed under part 16 of this chapter.

(C) Each shipment contains 25 or fewer wildlife parts and products containing wildlife.

(D) Each wildlife shipment is valued at $5,000 or less.

(E) Your business has not been assessed a civil penalty, issued a violation notice, or convicted of any misdemeanor or felony violations involving the import or export of wildlife.

(F) Your business has had two or fewer wildlife shipments that were refused clearance in the 5 years prior to the receipt of your request by the Service.

(G) Your business has not previously participated in the program and been removed for failure to meet the criteria.

(ii) *Program participation.* To participate in the fee exemption program for low-risk importations and exportations, you must use the Service's electronic declaration filing system (eDecs) and take the following actions:

(A) You must certify that you will exclusively import and export wildlife shipments that meet all the criteria in paragraph (k)(4)(i) of this section and renew this certification annually. Upon completion of the certification and review of the criteria by the Service, eDecs will notify you if you have been approved to participate in the program.

(B) You must continue to meet the criteria in paragraph (k)(4)(i) of this section while participating in the program. If you fail to meet the criteria after approval, you will be removed from the program and must pay all applicable fees.

(C) If approved to participate in the program you must file FWS Form 3–177 and all required accompanying documents electronically using eDecs for each shipment and meet all other requirements of this part.

Dated: October 23, 2012.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–26504 Filed 10–25–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120316196–2195–01]

RIN 0648–BB89

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Interim Action; Rule Extension

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

ACTION: Temporary rule; interim measures extended, and request for comments.

SUMMARY: This rule extends interim Gulf of Maine Atlantic cod catch limits and fishery management measures through the end of the 2012 fishing year (April 30, 2013). The need for the interim measures is unchanged, which was to establish Gulf of Maine cod annual catch limits and implement recreational management measures that will constrain catch to the recreational sub-annual catch limit. The intended effect of the interim measures is to reduce overfishing occurring on Gulf of Maine cod in anticipation of further action to end overfishing in the 2013 fishing year.

DATES: The expiration date of the temporary rule published May 1, 2012 (77 FR 25623) is extended to April 30, 2013. Comments are accepted through November 26, 2012.

ADDRESSES: You may submit comments on this document, identified by ''NOAA–NMFS–2012–0045,'' by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0045 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.

• *Mail:* Submit written comments to John K. Bullard, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930.

• *Fax* (978) 281–9135.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the supplemental environmental assessment (EA) prepared for this action by NMFS are available from John Bullard, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930. The supplemental EA is accessible via the Internet at *http://www.nero.noaa.gov.* A copy of the most recent stock assessment for Gulf of Maine cod is also accessible via the Internet at *http://www.nefsc.noaa.gov/groundfish*.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, phone: 978–675–2153.

SUPPLEMENTARY INFORMATION:

Background

As fully described in the initial interim rule implemented on May 1, 2012, (77 FR 25623), the final Gulf of Maine (GOM) cod assessment results were finalized in late January 2012. At that time, NMFS notified the New England Fishery Management Council (Council), as required by section 304(e)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), that the GOM cod rebuilding program was not making adequate progress toward rebuilding the stock, and that the Council must prepare an amendment within 2 years to rebuild the GOM cod stock. As authorized at section 304(e)(6) of the Magnuson-Stevens Act, the Council requested the Secretary of Commerce (Secretary) to implement interim measures to reduce, rather than end, overfishing of GOM cod while the Council developed a rebuilding plan. In response to the Council request and acting on behalf of the Secretary under authority granted by section 305(c) of the Magnuson-Stevens Act, NMFS implemented an initial interim rule May 1, 2012, to reduce rather than end overfishing on GOM cod during fishing year (FY) 2012, with the intent to extend the initial interim rule measures for the rest of FY 2012. However, the effectiveness for such rules is limited in duration. Rules may be issued for no more than 180 days with an extension of up to an additional 186 days to provide 12 months of interim measures. Therefore, this final interim rule extends the measures in the initial interim rule. The initial interim rule provided detailed information on how the interim measures are consistent with the authority provided by the Magnuson-Stevens Act and applicable NMFS guidelines for issuing interim measures. The background and authority-related information is not repeated here.

This temporary final rule extends the interim GOM cod catch limits and recreational management measures that were implemented on May 1, 2012. The initial interim measures expire on October 29, 2012; therefore, it is necessary to extend the interim measures until April 30, 2013, so that catch limits and recreational management measures are in place for the entire 2012 FY.

Eight comments were received on the initial interim rule. Responses to those comments are found in the Comments and Responses section later in this preamble.

Annual Catch Limits and Allocation

The initial interim rule implemented a GOM cod total annual catch limit (ACL) of 6,700 mt that was divided among the various fishery components (Table 1). The distribution of ACL between sectors and the common pool was based on preliminary sector rosters in the initial interim rule. Subsequently, there have been two modifications to the original sector and common pool distribution based on final sector rosters (June 25, 2012, 77 FR 37816) and carryover from FY 2011 (September 26, 2012, 77 FR 59132). While the total ACL of 6,700 mt has remained unchanged, Table 1 highlights the revised allocations to sectors and the common pool. This interim rule extends the allocations in the most recent rule that published September 26, 2012.

TABLE 1—GOM COD ALLOCATIONS BY FISHERY (MT)

	Sector		Common pool	Recreational	State waters	Other
	Allocation	Carryover				
GOM Cod Interim Rule	3,618	471	81	2,215	253	62
Final Sector Rosters	3,619	471	80	2,215	253	62
FY 2011 Carryover	3,619	467.2	80	2,215	253	62

Recreational Fishery Management Measures

The initial interim rule reduced the GOM cod recreational fishery minimum fish size from 24 in (61.0 cm) to 19 in (48.3 cm) and implemented a 9-fish bag limit (reduced from 10) to constrain catch to the recreational sub-ACL of 2,215 mt. These measures were based on analysis conducted by the Northeast Fisheries Science Center (NEFSC) using a new, but preliminary modeling approach and analytical model. Because of the uncertainty of the model and effectiveness of the measures, NMFS highlighted these concerns in the initial interim rule and outlined a plan to convene an external peer review of the model in question prior to this extension. A subset of the New England and Mid-Atlantic Fishery Management Councils' Science and Statistical Committees (SSC) convened on September 7, 2012, in Woods Hole, MA, to peer review the model and methods. The final SSC report found that the modeling approach was technically sound and represented an improvement over prior methods. Therefore, based on the findings of the peer review and the final report, this interim final rule extends the recreational measures through the end of FY 2012.

Comments and Responses

NMFS received eight comments during the comment period on the initial interim rule, five from private citizens, one from the Massachusetts Division of Marine Fisheries (DMF), and two from non-governmental organizations (Earth Justice and Oceana). Three of the comments from private citizens did not address measures of the rule and, as such, no responses have been provided.

Comment 1: The individual commented on the cod catch of different components of the recreational fishery and asked for additional reporting requirements for large party/charter vessels.

Response: Vessel trip reports are submitted by all recreational party/charter vessels to NMFS and the Marine Recreational Information Program collects, analyzes, and reports recreational fishing data. This interim rule was very limited in scope and duration for the purposes of reducing overfishing for 1 year, and therefore, did not address the larger issues and concerns about the sources of data that are needed to make management decisions, or consider modifying reporting requirements for the recreational fishery. The Council is the more appropriate forum for examining these larger issues regarding fishery effort and catch information by different components of the recreational fishery and to determine appropriate management measures.

Comment 2: The individual requested a new stock assessment that involves more input from members of the fishing industry.

Response: This comment does not directly pertain to the measures in the interim rule. The NEFSC will be completing stock assessments for Georges Bank (GB) and GOM cod in December 2012; these updates will provide catch advice to the Council for FY 2013. The NEFSC also recently hosted two workshops that included members of the fishing industry; one that reviewed the estimates of cod discard mortality rates and another that addressed the potential use of commercial catch per unit effort information in upcoming cod stock assessments. Lastly, the NEFSC has committed to side-by-side research with fishing industry vessels and the NEFSC's research vessels in the future.

Comment 3: Earth Justice requested that NMFS reject a Council request to allow partial access to the groundfish mortality closed areas. They also asked that NMFS develop a mid-year report on the interim catch levels and ongoing rebuilding efforts for GOM cod.

Response: NMFS denied the Council request to open closed areas in the initial interim rule and does not change that decision in this interim final rule. NMFS does not intend to complete a separate mid-year report at this time because commercial and recreational catch information is available (*http://www.nero.noaa.gov/ro/fso/MultiMonReports.htm*) and a comprehensive stock assessment is scheduled to occur in December of this year. At the end of FY 2012, NMFS intends to evaluate the commercial and recreational catch data and publish a final report on fishery performance. As mentioned above, the NEFSC will be completing a new GOM cod stock assessment which will provide insight on rebuilding efforts and help determine future catch levels and management measures for FY 2013.

Comment 4: The Massachusetts DMF and Oceana commented that there is inadequate and inaccurate catch monitoring given the current coverage rates of at-sea monitoring (25 percent), low catch limits for GOM cod, and the inability to enforce full retention of all legal-sized fish on unobserved trips.

Response: These comments align with a similar comment NMFS received for the FY 2012 Sector Operations Plan Rule, which suggested that the at-sea monitoring rate of 25 percent is inadequate. NMFS has determined, based on current information and analysis, that for FY 2012, the prescribed level of at-sea monitoring coverage is likely to provide reasonably accurate estimates of catch for sector vessels. However, The Plan Development Team (PDT) for the Council's Groundfish Oversight Committee and NMFS, are conducting an in depth examination into the adequacy of at-sea monitoring in the sector program; NMFS will reconsider the monitoring rate once this examination is complete. Moreover, because of the limited scope and duration of this interim rule, it is not appropriate or practicable to consider adjustments to the at-sea monitoring program and coverage levels in the middle of the fishing season. Resources for hiring, training, and allocating at-sea monitors have been made for the full year. Adjusting at-sea monitoring levels and protocol part way through the year has implications on sector operations and catch monitoring which should be addressed more fully in the Council process. Therefore, NMFS is attempting to address these concerns for FY 2013 and beyond.

Classification

The Regional Administrator, Northeast Region, NMFS, determined that this interim final rule is necessary for the conservation and management of the GOM cod fishery and that it is consistent with the Magnuson-Stevens Act and other applicable law.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator finds good cause to waive the full 30-day delay in effectiveness for this rule. This rule merely extends the rule currently in place for an additional 6 months. The need for this extension was fully anticipated and announced to the public in the initial interim rule published on May 1, 2012. Accordingly, the entities affected by this rule and the public have no need to be made aware of or adjust to this rule by delaying its effectiveness for 30 days. The primary reason for delaying the effectiveness of Federal regulations is not present, and, therefore, such a delay would serve no public purposes. On the other hand, it would be contrary to the public interest if this rule does not become effective on October 29, 2012, because the previously established ACL for FY 2012 of 8,551 mt would become effective, with the result that overfishing would not be reduced. These measures would increase overfishing on the GOM cod stock and, as such, are inconsistent with the Magnuson-Stevens Act, the stated intent of the GOM cod rebuilding program, and the FMP. Moreover, failing to have the rule effective on October 29, 2012, may lead to confusion in the fishing community as to what regulations govern the harvest of GOM cod. For these reasons, there is good cause to waive the requirement for delayed effectiveness. NMFS has consulted with the Office of Information and Regulatory Affairs (OIRA) and due to the circumstances described above this action is exempt from review under Executive Order 12866.

Under section 608 of the Regulatory Flexibility Act, an agency may waive the requirement to perform a regulatory flexibility analysis for a rule where the agency finds that the ''rule is being promulgated in response to an emergency that makes compliance or timely compliance with [the regulatory flexibility analysis requirements] impracticable.'' 5 U.S.C. 608. As discussed in the preamble and classification section of initial interim rule, NMFS takes this action to address an emergency situation in the GOM cod fishery. Undertaking a regulatory flexibility analysis would delay this action and put the GOM cod and any small businesses that depend on it at

further risk. Because the nature of this emergency requires immediate action, NMFS finds that compliance with the Regulatory Flexibility Act is impracticable. Thus, the requirements of the Regulatory Flexibility Act are hereby waived.

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

Dated: October 23, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2012–26416 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 120424023–1023–01]

RIN 0648–XC282

Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #22 through #26

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

ACTION: Modification of fishing seasons and landing and possession limits; request for comments.

SUMMARY: NMFS announces 5 inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial and recreational fisheries in the area from the U.S./Canada Border to Humboldt South Jetty, California.

DATES: The effective dates for the inseason action are set out in this document under the heading Inseason Actions. Comments will be accepted through November 13, 2012.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2012–0079, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, enter NOAA–NMFS–2012–0079 in the search box. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail:* William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–6349.
- *Fax:* 206–526–6736, Attn: Peggy Mundy.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2012 annual management measures for ocean salmon fisheries (77 FR 25915, May 2, 2012), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada Border to the U.S./Mexico Border, beginning May 1, 2012, and 2013 salmon seasons opening earlier than May 1, 2013.

NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Prior to taking inseason action, the Regional Administrator (RA) consults with the Chairman of the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)(1)). Management of the salmon fisheries is generally divided into two geographic areas: north of Cape Falcon (U.S./Canada Border to Cape Falcon, Oregon) and south of Cape Falcon (Cape Falcon, Oregon to the U.S./Mexico Border).

Inseason Actions

The table below lists the inseason actions announced in this document.

Inseason action number	Effective date	Salmon fishery affected
22	September 7, 2012	Commercial fishery from Humbug Mountain, Oregon to the Oregon/California Border (Oregon Klamath Management Zone or Oregon KMZ).
23	September 13, 2012	Recreational fishery from Queets River to Leadbetter Point (Westport subarea).
24	September 20, 2012	Recreational fishery from Cape Falcon, Oregon to Humbug Mountain, Oregon.
25	September 19, 2012	Commercial fishery from Oregon/California Border to Humboldt South Jetty, California (California KMZ).
26	September 27, 2012	Recreational fisheries from U.S./Canada Border to Queets River, Washington (Neah Bay and La Push subareas).

Inseason Action #22

The RA consulted with representatives of the Council, Oregon Department of Fish and Wildlife (ODFW), and California Department of Fish and Game (CDFG) on September 7, 2012.

The information considered during this consultation related to catch and effort to date in the commercial salmon fisheries south of Cape Falcon in the Oregon KMZ. Inseason action #22 closed the commercial salmon fishery in the Oregon KMZ on September 7, 2012, due to projected attainment of Chinook salmon quota. On September 7, 2012, the states recommended this action and the RA concurred; inseason action #22 took effect on September 7, 2012, and remained in effect until the end of the fishing season. Inseason action to effect season closure due to attainment of

quota is authorized by 50 CFR 660.409(a)(1).

Inseason Action #23

The RA consulted with representatives of the Council, Washington Department of Fish and Wildlife (WDFW), and ODFW on September 11, 2012. The information considered during this consultation related to catch and effort to date in the recreational salmon fishery north of Cape Falcon. Inseason action #23 adjusted the daily bag limit for the recreational salmon fishery in the Westport subarea (Queets River to Leadbetter Point) to two fish per day both of which can be a coho salmon and unmarked coho may be retained. This action was taken to allow greater access to available coho quota in the recreational fishery. On September 11, 2012, the states recommended this action and the RA concurred; inseason action #23 took effect on September 13, 2012, superseding inseason action #16 (77 FR 61728, October 11, 2012), and remained in effect until the end of the fishing season. Modification of recreational bag limits is authorized by 50 CFR 660.409(b)(1)(iii).

Inseason Action #24

The RA consulted with representatives of the Council, ODFW, and CDFG on September 18, 2012. The information considered during this consultation related to catch and effort to date in the recreational salmon fishery south of Cape Falcon. Inseason action #24 adjusted the schedule for the Cape Falcon to Humbug Mountain non-mark-selective coho fishery. The opening scheduled preseason for September 20 through September 22 was changed to September 21 only. This action was taken due to projected attainment of non-mark-selective quota for this fishery. On September 18, 2012, the states recommended this action and the RA concurred; inseason action #24 took effect on September 20, 2012 and remained in effect until September 22, 2012. Inseason modification of fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Inseason Action #25

The RA consulted with representatives of the Council, ODFW, and CDFG on September 19, 2012. The information considered during this consultation related to catch and effort to date in the commercial salmon fishery in the California KMZ. Inseason action #25 closed the commercial salmon fishery between the Oregon/California Border and Humboldt South Jetty on September 19, 2012 due to projected attainment of Chinook salmon quota. On September 19, 2012, the states recommended this action and the RA concurred; inseason action #25 took effect on September 19, 2012 and remained in effect through the end of the fishing season. Inseason action to effect season closure due to attainment of quota is authorized by 50 CFR 660.409(a)(1).

Inseason Action #26

The RA consulted with representatives of the Council, (WDFW), and (ODFW) on September 27, 2012. The information considered during this consultation related to catch and effort to date in the recreational salmon fisheries north of Cape Falcon. Inseason action #26 transferred 150 coho salmon from the recreational fishery quota for the Neah Bay subarea to the recreational fishery quota for the La Push subarea. This action resulted in a final coho quota of 8,200 for Neah Bay and 2,360 for La Push. This action was taken to allow the La Push fall fishing season to proceed as scheduled for September 29 through October 14 (77 FR 25915, May 2, 2012) while staying within the coho quota. On September 27, 2012, the states recommended this action and the RA concurred; inseason action #26 took effect on September 27, 2012 and remains in effect until the end of the fishing season or subsequent inseason action. Inseason modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

All other restrictions and regulations remain in effect as announced for the 2012 Ocean Salmon Fisheries (77 FR 25915, May 2, 2012) and subsequent inseason actions (77 FR 55426, September 10, 2012; and 77 FR 61728, October 11, 2012) not otherwise modified herein.

The RA determined that the best available information indicated that the stock abundance, and catch and effort projections supported the above inseason actions recommended by the states. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the date the action was effective, by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (77 FR 25915, May 2, 2012), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan (50 CFR 660.409 and 660.411). Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data were collected to determine the extent of the fisheries, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, thus allowing fishers access to the available fish at the time the fish were available while ensuring that quotas are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon Fishery Management Plan and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: October 23, 2012.

James P. Burgess,

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

[FR Doc. 2012–26414 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737–2141–02]

RIN 0648–XC319

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to fully use the 2012 total allowable catch of pollock in Statistical Area 620 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 24, 2012, through 1200 hrs, A.l.t., November 1, 2012. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 13, 2012.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2012–0213, by any one of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0213 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on that line.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.
- *Hand delivery to the Federal Building:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for pollock in Statistical Area 620 of the GOA under § 679.20(d)(1)(iii) on October 1, 2012 (77 FR 60321, October 3, 2012).

As of October 22, 2012, NMFS has determined that approximately 4,900 metric tons of pollock remain in the directed fishing allowance for pollock in Statistical Area 620 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2012 TAC of pollock in Statistical Area 620 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing pollock in Statistical Area 620 of the GOA, effective 1200 hrs, A.l.t., October 24, 2012.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of pollock in Statistical Area 620 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the directed pollock fishery in Statistical Area 620 of the GOA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 22, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow pollock fishery in Statistical Area 620 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until November 13, 2012.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: October 23, 2012.

James P. Burgess,

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

[FR Doc. 2012–26400 Filed 10–23–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 208
Friday, October 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.

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[NOTICE 2012–07]

Rulemaking Petition: Electioneering Communications Reporting

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On October 5, 2012, the Commission received a Petition for Rulemaking from the Center for Individual Freedom. See REG 2012–01 Electioneering Communications Reporting (2012). The Petition urges the Commission to revise the regulations regarding the reporting of electioneering communications.

DATES: Statements in support of or in opposition to the Petition must be submitted on or before December 26, 2012.

ADDRESSES: All comments must be in writing. Comments may be submitted electronically via the Commission's Web site at *http://www.fec.gov/fosers/* (REG 2012–01 Electioneering Communications Reporting (2012)). Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, comments may be submitted in paper form. Paper comments must be sent to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel, 999 E Street NW., Washington, DC 20463. All comments must include the full name and postal service address of a commenter, and of each commenter if filed jointly, or they will not be considered. The Commission will post comments on its Web site at the conclusion of the comment period.

The Petition is available for inspection in the Commission's Public Records Office, on its Web site, *http://www.fec.gov/fosers/* (REG 2012–01 Electioneering Communications Reporting (2012)), and through its Faxline service.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Theodore M. Lutz, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Commission (''Commission'') has received a Petition for Rulemaking from the Center for Individual Freedom. The petitioner asks that the Commission revise 11 CFR 104.20(c)(8) and (9) ''by deleting the phrase 'pursuant to 11 CFR 114.15,' thereby explicitly applying the electioneering communication disclosure obligations of corporations and labor unions to any form of electioneering communication.'' The Commission seeks comments on the petition.

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street NW., Washington, DC 20463, Monday through Friday between the hours of 9 a.m. and 5 p.m., and on the Commission's Web site, *http://www.fec.gov/fosers/* (REG 2012–01 Electioneering Communications Reporting (2012)). Interested persons may also obtain a copy of the Petition by dialing the Commission's Faxline service at (202) 501–3413 and following its instructions, at any time of the day and week. Request document #273.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the **Federal Register**.

Dated: October 18, 2012.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2012–26116 Filed 10–25–12; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0966; Airspace Docket No. 12–AWA–5]

RIN 2120–AA66

Proposed Modification of Class B Airspace; Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Las Vegas, NV, Class B airspace area to ensure the containment of large turbine-powered aircraft within Class B airspace, reduce air traffic controller workload, and reduce the potential for midair collision in the Las Vegas terminal area.

DATES: Comments must be received on or before December 26, 2012.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, RoomW12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2012–0966 and Airspace Docket No. 12–AWA–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2012–0966 and Airspace Docket No. 12–AWA–5) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Nos. FAA–2012–0966 and Airspace Docket No. 12–AWA–5.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5.00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Western Service Center, Operations Support Group, Federal Aviation Administration, 1601 Lind Ave. SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In August 1974, the FAA issued a final rule establishing the Las Vegas, NV, Terminal Control Area (TCA) with an effective date of November 11, 1974 (39 FR 28518). The Las Vegas TCA configuration was modified in 1982 by raising some area floors to provide greater flexibility for aircraft wishing to avoid the airspace and by lowering and realigning other areas to ensure that turbine-powered aircraft operations were fully contained within the TCA (47 FR 30052).

In 1993, as part of the Airspace Reclassification Final Rule (56 FR 65638), the term ''terminal control area'' was replaced by ''Class B airspace area.'' That rule did not change the configuration of the TCA/Class B airspace area.

The primary purpose of Class B airspace is to reduce the potential for midair collisions in the airspace surrounding airports with high density air traffic operations by providing an area in which all aircraft are subject to certain operating rules and equipment requirements. FAA policy requires that Class B airspace areas be designed to contain all instrument procedures and that air traffic controllers are to vector aircraft to remain within Class B airspace after entry. Controllers must inform the aircraft when leaving and re-entering Class B airspace if it becomes necessary to extend the flight path outside Class B airspace for spacing. However, in the interest of safety, FAA policy dictates that such extensions be the exception rather than the rule.

Since the Las Vegas Class B airspace was last modified in 1982, traffic volume and passenger enplanements have risen significantly. Recent development and implementation of arrival and departure procedures based on RNAV and satellite-based navigation have resulted in changes to traffic flows and climb/descent profiles serving McCarran International Airport (LAS). Today, over 95 percent of scheduled flights in the LAS terminal area are RNAV equipped and the general aviation community equipage has advanced in step. After these procedures were implemented, the FAA conducted a review of the Class B airspace area. The review included a 30-day sampling of flight tracks in the current Class B conducted in February–March 2010. Analysis of the sampling revealed that 2,880 aircraft temporarily exited the Class B airspace while arriving at or departing from LAS. The same data were then reprocessed utilizing the proposed Class B airspace design to evaluate whether any differences could be realized with the airspace modifications. The analysis indicated the potential for a reduction in the number of Class B excursions by an average of 69 percent. It was determined that Class B airspace modifications are necessary to reduce the number of Class B excursions and increase the number of air traffic operations that would be contained within the Class B.

McCarran International Airport is located in a valley surrounded by mountainous terrain. Three airports lie in close proximity to LAS: Nellis Air Force Base (LSV) is 11 NM northeast of LAS; North Las Vegas Airport (VGT) is 8 NM northwest; and Henderson Executive Airport (HND) is 6 NM south; all of which contribute to the high density of air traffic in the valley. Due to the combination of terrain, high density air traffic and airspace to the north that is delegated to the Nellis Air Traffic Control Facility, high performance aircraft operating at LAS are restricted to very limited arrival and departure routings. These factors compress aircraft onto heavily used routes, which are directly dependent upon the structure of Class B airspace to ensure safety and efficiency. VFR aircraft transition daily above the LAS downwind and departure areas and are routinely potential conflicts for LAS arrival and departure traffic.

The airspace north of LAS and VGT is highly congested with military aircraft operating to and from Nellis AFB. Potential routes into and out of VGT and LAS on the north side have been effectively eliminated by the proximity and volume of operations at Nellis AFB. This has forced VFR traffic transitioning to and from VGT into an area west of VGT.

LAS operations continue to exceed the criteria to qualify for Class B airspace. In calendar year (CY) 2011, LAS ranked eighth on the list of the ''50 Busiest FAA Airport Traffic Control Towers,'' with over 531,000 airport operations (up approximately 5 per cent from CY 2010 levels). For CY 2010 (the latest validated figures), LAS ranked ninth in the nation for passenger enplanements with just under 19 million. Preliminary numbers for CY 2011 project a 4.52% increase over CY 2010 enplanements. Satellite airport traffic at VGT, HND, and Boulder City Municipal Airport (BVU) has also increased significantly in recent years as have operations at Nellis Air Force Base. In CY 2011, combined airport operations at VGT and HND added over 241,000 operations to the mix.

LAS air traffic navigation procedures have been modified repeatedly over the years to benefit from advances in navigation technology. These advances led to the development of new approach procedures that provide needed course guidance over difficult terrain areas. However, the current LAS Class B airspace design has not kept pace with improvements in navigation capabilities or today's increased traffic volume and

complexity. Consequently, the LAS Class B does not fully contain turbine-powered aircraft as required by FAA directives. Some examples that illustrate this problem are: (1) The Runway 25L and 25R ILS approach procedures are not fully contained within the Class B; (2) due to terrain and airspace limitations, controllers routinely must vector aircraft to the Runway 01L ILS localizer course. To enable these aircraft to descend as prescribed to intercept the glide slope at the proper altitude, they are vectored momentarily outside the Class B airspace: And, (3) some RNAV arrivals are not fully contained within the Class B. Containment of large turbine-powered aircraft within Class B airspace is a significant interest of the FAA's Office of Aviation Safety Oversight. The limitations of the current Class B design also contribute to increased air traffic controller workload and radio frequency congestion due to the requirement that controllers issue an advisory to pilots upon exiting and re-entering the Class B.

Pre-NPRM Public Input

An Ad Hoc Committee was formed in early 2010 to review the Las Vegas Class B airspace and provide recommendations to the FAA about the proposed design. The Committee was chaired by the State of Nevada Department of Transportation and consisted of representatives from a range of national and local aviation interests. The Committee held five meetings between March and November 2010 and submitted its recommendations to the FAA in January 2011.

In addition, as announced in the **Federal Register** (76 FR 35371), three informal airspace meetings were held in the Las Vegas area. The meetings were held on: August 18, 2011, at Centennial High School, Las Vegas, NV; August 23, 2011, at Coronado High School, Henderson, NV; and August 25, 2011 at Shadow Ridge High School, Las Vegas, NV. The purpose of the meetings was to provide interested airspace users an opportunity to present their views and offer suggestions regarding the proposed modifications to the Las Vegas Class B airspace area.

Discussion of Recommendations and Comments

Ad Hoc Committee Input

The Ad Hoc Committee recommendations are discussed below.

The Ad Hoc Committee was nearly equally divided on the proposal to raise the Class B ceiling from 9,000 feet MSL to 10,000 feet MSL. The members objecting to the proposal stated that there are no safety or operational efficiency enhancements to be gained by extending the ceiling to 10,000 feet. They argue instead that the 10,000-foot ceiling would impact the safety and operational efficiency of general aviation.

The current 9,000-foot MSL ceiling is problematic because the amount of airspace usable for air traffic control is reduced by the unique terrain surrounding the terminal area. This affects the minimum vectoring altitude controllers may use in the terminal area and causes a compressive effect on air traffic control (ATC) operations that limits controllers' options for using speed and altitude to sequence and separate traffic. In addition, the current 9,000-foot MSL ceiling allows overflights of the Class B at 9,500 feet MSL, which conflict with LAS arrivals. Raising the Class B ceiling to 10,000 feet MSL would provide operational and safety advantages, such as: More airspace for controllers to accomplish sequencing and allowing for later application of speed control techniques. Another factor is VOR Federal airway V–394, which traverses the area. The airway allows overflight traffic, not in communication with ATC, to cross above the current Class B airspace at 9,500 feet MSL. The airway traffic runs through the LAS arrival flows and conflicts with LAS aircraft utilizing established profile climb and descent procedures. This restricts arrivals from the west from continuing the profile descent. By raising the Class B ceiling, overflight traffic would be required to communicate with ATC unless they are above 10,000 feet MSL. This would allow profile descents to continue unimpeded, or at least allow ATC to approve and separate V–394 users from the profile descent aircraft. LAS departures are also impacted because ATC must vector the departures, at low altitudes relative to the terrain, in order to avoid the nonparticipating traffic. In some cases, ATC must stop departures until the traffic confliction is clear. The FAA estimates that raising the ceiling to 10,000 feet MSL could reduce the number of Traffic Alert and Collision Avoidance System (TCAS) Resolution Advisories (RA) from VFR aircraft in that area by as much as 25 percent.

The Committee recommended that the Area A boundary west of HND be modified to provide more maneuvering room for aircraft operations at HND.

The FAA agrees. The current visual operation into HND is limited by the tight turns required to avoid adjacent Class B airspace. The FAA changed the proposed Area A boundary west of HND from the 180°(T) radial to the 185°(T) radial. This increases available Class D airspace at HND/enhancing the operational safety and usability of the airport.

The Committee requested that the boundaries of Areas B/E, D/S and P/S be aligned along a single Las Vegas VORTAC radial.

The FAA is unable to fully propose this recommendation. The area boundaries cannot be defined along a single radial because it would not provide adequate Class B airspace to contain aircraft on instrument procedures.

The Committee also suggested that: The floor of Area C should be lowered from 6,500 feet MSL to 6,000 feet MSL and the area should be split into two areas (C and D); the southern boundary of Area D should be aligned along the LAS 115°(T) radial; and the western boundary of Area E should be moved to coincide with the Area A boundary.

The FAA agrees with the suggestions and has incorporated them into the proposal.

In Area F, the Committee recommended that: The floor of Area F be lowered to 7,500 feet or higher (instead of the initial design of 6,000 feet) to accommodate general aviation; the western boundary be aligned along the LAS 235°(T) radial (Note: The initial design proposed the LAS 240° radial) or further east if possible; and the eastern boundary be aligned along the LAS 185°(T) radial.

The FAA agrees, in part. The floor of Area F is now proposed at 7,000 feet MSL rather than the Committee's requested 7,500 feet MSL, and the suggested radial alignments have been added.

The Committee suggested that the eastern boundaries of Areas G and H be aligned along the 185°(T) radial to match the Area A boundary; and that floor of Area G, between the 255°(T) and 305°(T) radials, be raised to at least 5,500 feet MSL to improve general aviation operations.

The FAA agrees with the LAS 185°(T) radial alignment for Areas G and H and proposes a new Area T to accommodate the requested 5,500-foot MSL floor. However, the northern boundary of the proposed Area T could not be extended beyond the LAS 295°(T) radial due to interference with the STAAV Departure Procedure.

The Committee wrote that the Area O boundary should be repositioned from the LAS 20 NM arc to the 22 NM arc and the area floor should be retained at 8,000 feet MSL.

The FAA agreed to shift the proposed Area O boundary to the 22 NM arc, but

the floor of the area is proposed to be lowered to 7,000 feet MSL so that arriving aircraft can conduct a stabilized descent and remain within Class B airspace.

The Committee recommended that the proposed floor of Area P be raised from 8,000 feet MSL to 9,000 feet MSL; and the eastern boundary be repositioned to the LAS 30 NM arc in order to alleviate congestion between the Class B and the Grand Canyon Special Flight Rules Area.

The FAA is unable to raise the proposed floor as requested. An 8,000-foot floor is required to contain RNAV arrivals within Class B airspace. However, the FAA agrees with moving the proposed eastern boundary westward to the 30 NM arc.

The Committee asked that the floor of Area R be raised to at least 8,500 feet MSL to accommodate glider activity at Jean Airport (0L7).

The initial proposed floor of Area R was 7,000 feet MSL. The FAA agreed to raise the floor to 8,000 feet MSL rather than 8,500 feet. A higher floor could not be approved due to the need to contain ILS approach procedures.

The FAA's initial proposal, as considered by the Committee, included two areas (Area S to the east of LAS; and Area T south of LAS) that extended out as far as the 40-mile arc. The Committee recommended these areas be eliminated and replaced with revised areas to the southeast and west of LAS, respectively.

The FAA concurred with the Committee and in this proposal; Areas S and T have been reconfigured as described in the proposal.

The original FAA proposal also added an Area U between the 15- and 20-mile arcs and bounded by the Las Vegas 160°(T) and 185°(T) radials, with a floor of 7,000 feet MSL. The Committee recommended that this area retain a floor of 8,000 feet MSL due to the Minimum Safe Altitude of 7,400 feet MSL in that area.

The FAA has reconfigured Area U and relabeled it as ''Area Q'' in this proposal.

Informal Airspace Meeting Comments

The FAA received 19 written comments in response to the Informal Airspace Meetings. These comments were broken down into six categories that are discussed next.

Five comments concerned the proposed 10,000-foot MSL Class B airspace ceiling. Two comments agreed with the proposal, but the remainder were opposed due primarily to the assumed impact on VFR flight operations. This issue was discussed in the Ad Hoc Committee Input section (see above).

Six comments said that the proposal limits available airspace for general aviation aircraft that are attempting to avoid high terrain while remaining clear of, or unable to obtain clearance through, the Class B airspace. The comments focused on high terrain issues and/or limited maneuvering area available to traffic operating to/from VGT, HND and 0L7.

The primary purpose of this proposal is to ensure the containment of large turbine-powered aircraft as required by FAA directives. The Ad Hoc Committee recommendations dealt with similar issues for adjusting the proposed subareas to better accommodate operations and/or simplify description. The FAA incorporated many of these recommendations including: The Area A boundary was adjusted to provide more maneuvering room for HND operations; the floor of area F was set at 7,000 feet MSL instead of 6,000 feet to accommodate general aviation uses; the eastern boundary of Area P was repositioned to the 30 NM arc to alleviate congestion between the Class B airspace and the Grand Canyon Special Flight Rules Area; Area R was modified by raising the proposed floor from 7,000 feet MSL to 8,000 feet MSL, reducing the width of the area by 2 NM and moving the eastern boundary 3 degrees to the west to accommodate glider operations at 0L7; and the proposed Area T was redesigned with a floor of 5,500 feet MSL west of LAS to provide additional airspace outside of Class B for general aviation aircraft in an area of high terrain and populated areas.

Four comments expressed concern about the potential effect of the proposal on sport aircraft operations at 0L7, primarily in Areas F and R.

In October 2011, a Las Vegas TRACON representative met with members of the glider community at Jean Airport to discuss their concerns, specifically regarding the proposed Area R. As a result, the FAA has revised the proposal by reducing the width of Area R by 2 NM and by moving the eastern boundary of the area 3 degrees to the west.

Seven comments provided charting recommendations and/or requested a published VFR transition route through the Class B airspace.

Although VFR charting issues are not part of the rulemaking process, Las Vegas TRACON has developed 16 new VFR waypoints to coincide with the existing VFR checkpoints shown on the VFR charts. In addition, four new VFR checkpoints and waypoints were also developed to assist general aviation aircraft transiting around the Class B. These enhancements are completed and were published beginning with the August 23, 2012 edition of the Las Vegas Terminal Area Chart (TAC) and the Charted VFR Flyway Planning Chart. The FAA continues to evaluate a VFR transition route through Class B airspace to accommodate VFR operators. However, VFR route options are extremely limited by terrain and special use airspace in the Las Vegas vicinity as well as IFR traffic operating on established procedures.

Eleven comments provided specific Class B design recommendations.

A number of these recommendations were not incorporated because they would create airspace that did not meet the need to contain all instrument procedures. Many of the design comments from the Informal Airspace Meetings were also addressed in the Ad Hoc Committee recommendations (see above) and a majority of the Committee's recommendations are set forth in this proposal. One comment from the meeting proposed that the Area G/H border follow the St. Rose Parkway to I–215, to I–515, then east to Area B. The FAA determined that it is not possible to utilize these ground references to establish the boundaries due to existing IFR traffic patterns. However, as discussed above, new VFR waypoints and checkpoints have been added to the VFR charts to assist VFR pilot navigation in the area.

Four commenters asserted that ATC is not very willing to provide Class B service to general aviation aircraft landing or departing the satellite airports. They stated that Class B clearance was commonly denied with pilots being instructed to remain clear of the Class B.

FAA directives state that the provision of additional services (such as Class B service for VFR aircraft) is not optional on the part of the controller, but rather is required when the work situation permits. However, in light of these comments, and Ad Hoc Committee input, the FAA initiated several internal processes to monitor the availability of Class B services being offered and to evaluate those issues that cause the denial of service.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify the Las Vegas, NV, Class B airspace area. This action (depicted on the attached chart) would modify the lateral and vertical limits of the Class B airspace to ensure the containment of large turbine-powered aircraft and enhance safety in

the Las Vegas terminal area. The FAA proposes to modify each of the original 15 subareas (A through O) and add five new areas (P through T). The lateral limits would be expanded in several areas. To the east of LAS, Area P will extend the outer limit from the current 25 NM out to 30 NM between the 115°(T) and 132°(T) radials. On the southeast, Area S will move the current 20 NM radius to become 30 NM between the 115°(T) and 132°(T) radials. To the south, in Area R, the current 20 NM radius would be changed to 23 NM between the 188°(T) and 225°(T) radials. To the southwest in Area G, a small segment would extend from the current 10 NM out to 20 NM bounded by the 240°(T) radial). The proposal would also raise the ceiling of the entire Class B from the current 9,000 feet MSL to 10,000 feet MSL. The proposed Class B subarea modifications are outlined below. All subareas would extend upward from the specified altitude to 10,000 feet MSL.

Area A. Area A would continue to extend upward from the surface. The southern boundary of the area, in the vicinity of Henderson Executive Airport (HND), would be modified by moving the boundary that lies west of HND from the 180°(T) radial to the 185°(T) radial. This would provide more airspace for operations at HND. In addition, the southeast corner of Area A would be shifted from the 115°(T) radial to the 119°(T) radial to ensure containment of aircraft joining the ILS Runway 25L and 25R approaches.

Area B. The floor of Area B would remain at 4,500 feet MSL. The southern boundary of the area would be moved from the 115°(T) radial to the 119°(T) radial, with a segment along the 16 mile arc in order to retain aircraft in Class B airspace as they descend to capture the ILS Runway 25L or 25R localizer.

Area C. The floor of Area C would be lowered to 6,000 feet MSL instead of the current 6,500 feet. The southern boundary would be moved from the current 125°(T) radial to the 083°(T) radial. On the east, the current 20 mile arc would be moved out to the 22 mile arc. These changes would ensure aircraft are kept in Class B airspace and still allow for a stabilized approach to runways 19L and 19R. The FAA determined that not all of the current Area C airspace would need to be lowered to 6,000 feet MSL. Therefore, Area C would be reduced in size by shifting that portion south of the 083°(T) radial into the proposed Area D with a floor of 6,500 feet MSL.

Area D. Area D would be reconfigured by lowering the floor from 8,000 feet MSL to 6,500 feet MSL, resetting the boundaries between the 16 and 22 mile arcs instead of the current 20 and 25 mile arcs and incorporating a portion of Area C, as described above. The changes would support SUNST and KEPEC RNAV arrivals being vectored to intercept the Runway 25L localizer.

Area E. The floor of Area E would remain at 6,000 feet MSL. The current boundary would be moved from the 115°(T) radial to the 119°(T) radial. This change is required to contain aircraft descending to the proper altitude to capture the ILS approach for Runway 25L or 25R.

Area F. The floor of Area F would be lowered from 8,000 feet MSL to 7,000 feet MSL and the eastern boundary would be shifted from the 125°(T) radial to the 185°(T) radial. This change would contain aircraft that currently exit Class B airspace on the ILS Runway 1L approach.

Area G. The floor of Area G would remain at 5,000 feet MSL. The boundary segment currently along the 235°(T) radial would be moved to the 240°(T) radial and the segment defined by the 295°(T) radial would be shifted to the 255°(T) radial. The remaining segment between the 255°(T) radial and the 295°(T) radial would be redesignated as a new Area T, described below. These changes allow aircraft to remain within Class B airspace while descending for the ILS Runway 25L or 25R approaches and to contain the SHEAD Departure Procedure.

Area H. The floor of Area H would remain at 4,000 feet MSL. The northern boundary would be moved from the 295°(T) radial to the 310°(T) radial and the southern boundary would move from the 180°(T) radial to the 185°(T) radial. The 185°(T) radial would align with previously described area modifications, while the proposed 310°(T) boundary would extend the 4,000-foot Class B floor slightly northward (into the current Area I) to provide separation from the STAAV departure procedure.

Area I. The floor of Area I would remain at 4,500 feet MSL, but a small segment in the southern corner of Area I would be transferred into Area H (with its 4,000-foot MSL floor) as described above.

Area J, Area K, Area L, Area M and Area N. The only change to these areas would be raising the ceiling from 9,000 feet MSL to 10,000 feet MSL.

Area O. The floor of Area O would be lowered to 7,000 feet MSL instead of the current 8,000 feet MSL. In addition, the boundaries would be realigned between the 22 and 25 mile arcs from the 046°(T) radial clockwise to the 083°(T) radial. These changes would ensure containment of arrivals executing the Runway 25L ILS approach, the GRNPA RNAV Arrival and aircraft being vectored from the east to land on Runways 19L and 19R.

Area P. This would be a new subarea with a floor of 8,000 feet MSL. It would extend from the 060°(T) radial clockwise to the 115°(T) radial and bounded on the east by the 30-mile arc and on the west by the modified Areas D and O. Area P would provide containment for four RNAV arrival procedures.

Area Q. This would be a new subarea with a floor of 8,000 feet MSL. It would lie between the 15 and 20 mile arcs from the 132°(T) radial clockwise to the 185°(T) radial. It would consist of airspace currently in the eastern half of Area F. Area Q would contain aircraft being vectored from the southeast to a point where they are turned north for a straight-in approach.

Area R. Area R would be a new subarea with a floor of 8,000 feet MSL. It would expand Class B airspace from the 20 mile arc out to the 23 mile arc, between the 188°(T) radial clockwise to the 225°(T) radial. Area R would ensure containment of aircraft being vectored for the ILS Runway 1L approach.

Area S. Area S would be a new area with a floor of 7,000 feet MSL. It would be located southeast of LAS between the 15 and 27 mile arcs and between the 115°(T) and 132°(T) radials. The area is required to ensure containment of operational procedures into LAS.

Area T. Area T would be a new area with a floor of 5,500 feet MSL. The area would lie west of LAS between the 8 and 10 mile arcs, and the 255°(T) and the 295°(T) radials. The area would be created from a portion of the existing Area G. This area was derived from Ad Hoc Committee discussions proposing to raise the floor of the Class B west of LAS to at least 5,500 feet MSL to provide additional airspace for terrain clearance and flight above populated areas for general aviation operations.

In addition to the above, this action updates the McCarran International Airport reference point (ARP); the Henderson Executive Airport name and ARP; and the North Las Vegas Airport name and ARP to reflect the current information in the FAA's National Airspace System Resource database.

Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9W, dated August 8, 2012 and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class B airspace area proposed in this document would be published subsequently in the Order.

Environmental Review

This proposal is subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no new information collection requirement associated with this proposed rule.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows:

This action proposes to modify the Las Vegas, NV, Class B airspace area to ensure the containment of large turbine-powered aircraft within Class B airspace, reduce controller workload and reduce the potential for midair collision in the Las Vegas terminal area. The proposal would modify the original subareas, add new subareas and raise the ceiling of the entire Class B airspace from 9,000 feet MSL to 10,000 feet MSL.

The proposed restructuring would result in safety benefits and increased operational efficiencies. This rule would enhance safety by reducing the number of Class B excursions and consequently reducing air traffic controller workload and radio frequency congestion. By expanding the Class B area where aircraft are subject to certain operating rules and equipment requirements it would also reduce the potential for midair collisions and could reduce TCAS advisories by as much as 25%. The proposed modification of the Class B airspace would provide operational advantages as well, such as allowing more airspace for controllers to accomplish sequencing and reducing the need for controllers to vector LAS arrivals and departures to avoid nonparticipating traffic.

The FAA expects some operational efficiencies from the larger Class B airspace offset slightly by possible VFR reroutings resulting in minimal cost overall, would not require updating of materials outside the normal update cycle, and would not require rerouting of IFR traffic. The redefined Class B airspace might possibly cause some VFR traffic to travel alternative routes which are not expected to be appreciably longer than with the current airspace design.

The expected outcome would be a minimal impact with positive net benefits, and a regulatory evaluation was not prepared. The FAA requests comments with supporting justification about the FAA determination of minimal impact.

FAA has, therefore, determined that this proposed rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The proposed rule is expected to improve safety and efficiency by redefining Class B airspace boundaries and would impose only minimal costs because it would not require rerouting of IFR traffic, could possibly cause some VFR traffic to travel alternative routes that are not expected to be appreciably longer than with the current airspace design, and would not require updating of materials outside the normal update cycle. Therefore, the expected outcome would be a minimal economic impact on small entities affected by this rulemaking action. Therefore, the FAA certifies this proposed rule, if promulgated, would not have a significant impact on a substantial number of small entities. The FAA solicits comments regarding this determination. Specifically, the FAA requests comments on whether the proposed rule creates any specific compliance costs unique to small entities. Please provide detailed economic analysis to support any cost claims. The FAA also invites comments regarding other small entity concerns with respect to the proposed rule.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the

establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would have only a domestic impact and therefore no effect on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $143.1 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 2012, is amended as follows:

Paragraph 3000 Subpart B-Class B Airspace

* * * * *

AWP NV B Las Vegas, NV

McCarran International Airport (Primary Airport)
(Lat. 36°04′48″ N., long. 115°09′08″ W.)
Las Vegas VORTAC
(Lat. 36°04′47″ N., long. 115°09′35″ W.)
Henderson Executive Airport
(Lat. 35°58′22″ N., long. 115°08′04″ W.)
North Las Vegas Airport
(Lat. 36°12′39″ N., long. 115°11′40″ W.)
Boundaries.

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 020°(T)/005°(M) radial at 15 DME (Lat. 36°18′54″ N., long. 115°03′14″ W.); thence along a line direct to the Las Vegas VORTAC 033°(T)/018°(M) radial at 20 DME (Lat. 36°21′34″ N., long. 114°56′06″ W.); thence northeast along that radial to the 25 DME point (Lat. 36°25′46″ N., long. 114°52′43″ W.); thence clockwise along the 25 DME arc to the Las Vegas VORTAC 046°(T)/031°(M) radial (Lat. 36°22′08″ N., long. 114°47′19″ W.); thence southwest along that radial, to the 10 DME point (Lat. 36°11′44″ N., long. 115°00′42″ W.); thence clockwise along the 10 DME arc to the Las Vegas VORTAC 119°(T)/104°(M) radial (Lat. 35°59′55″ N., long. 114°58′49″ W.); thence west along a line direct to the Las Vegas VORTAC 185°(T)/170°(M) radial at 4.4 DME (Lat. 36°00′24″ N., long. 115°10′04″ W.); thence south along that radial to the 6 DME point (Lat. 35°58′48″ N., long. 115°10′14″ W.); thence clockwise along the 6 DME arc to (Lat. 36°10′19″ N., long. 115°12′29″ W.); thence counterclockwise along the 2.4-mile radius arc of North Las Vegas Airport to Lat. 36°12′04″ N., long. 115°08′47″ W.; thence north along the Las Vegas VORTAC 005°(T)/350°(M) radial to 15 DME (Lat. 36°19′45″ N., long. 115°07′58″ W.); thence clockwise along the 15 DME arc to the point of beginning.

Area B. That airspace extending upward from 4,500 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 046°(T)/031°(M) radial at 10 DME, (Lat. 36°11′44″ N., long 115°00′42″ W.); thence northeast along that radial to 15 DME (Lat. 36°15′12″ N., long. 114°56′15″ W.); thence clockwise along the 15 DME arc to the Las Vegas VORTAC 083°(T)/068°(M) radial (Lat. 36°06′35″ N., long. 114°51′13″ W.); thence east along that radial to 16 DME (Lat. 36°06′43″ N., long. 114°49′59″ W.); thence clockwise along the 16 DME arc to the Las Vegas VORTAC 115°(T)/100°(M) radial (Lat. 35°57′59″ N., long. 114°51′43″ W.); thence northwest along that radial to 15 DME (Lat. 35°58′25″ N., long. 114°52′50″ W.); thence clockwise along the 15 DME arc to the Las Vegas VORTAC 119°(T)/104°(M) radial (Lat. 35°57′29″ N., long. 114°53′26″ W.); thence northwest along that radial to 10 DME (Lat. 35°59′55″ N., long. 114°58′49″ W.); thence counterclockwise along the 10 DME arc to the point of beginning.

Area C. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 046°(T)/031°(M) radial at 15 DME (Lat. 36°15′12″ N., long. 114°56′15″ W.); thence northeast along that radial to 22 DME (Lat. 36°20′04″ N., long. 114°50′00″ W.); thence clockwise along the 22 DME arc to the Las Vegas VORTAC 083°(T)/068°(M) radial (Lat. 36°07′25″ N., long. 114°42′38″ W.); thence northwest along that radial to 15 DME (Lat. 36°06′35″ N., long. 114°51′13″ W.); thence counterclockwise along the 15 DME arc to the point of beginning.

Area D. That airspace extending upward from 6,500 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 083°(T)/068°(M) radial at 16 DME (Lat. 36°06′43″ N., long. 114°49′03″ W.); thence northeast along that radial to 23 DME (Lat. 36°07′34″ N., long. 114°41′03″ W.); thence clockwise along the 23 DME arc to the Las Vegas VORTAC 115°(T)/100°(M) radial (Lat. 35°55′26″ N., long. 114°45′02″ W.); thence west along that radial to 16 DME (Lat. 35°57′59″ N., long. 114°51′43″ W.); thence counterclockwise along the 16 DME arc to the point of beginning.

Area E. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 119°(T)/104°(M) radial at 10 DME (Lat. 35°59′55″ N., long. 114°58′49″ W.); thence southeast along that radial to 15 DME (Lat. 35°57′29″ N., long. 114°53′26″ W.); thence clockwise along the 15 DME arc to the Las Vegas VORTAC 185°(T)/170°(M) radial (Lat. 35°49′49″ N., long. 115°11′12″ W.); thence north along that radial to 10 DME (Lat. 35°54′48″ N., long. 115°10′40″ W.); thence counterclockwise along the 10 DME arc to the point of beginning.

Area F. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 185°(T)/170°(M) radial at 15 DME (Lat. 35°49′49″ N., long. 115°11′12″ W.); thence south along that radial to 20 DME (Lat. 35°44′50″ N., long. 115°11′44″ W.); thence clockwise along the 20 DME arc to the Las Vegas VORTAC 235°(T)/220°(M) (Lat. 35°53′16″ N., long. 115°29′45″ W.); thence northeast along that radial to 15 DME (Lat. 35°56′09″ N., long. 115°24′43″ W.); thence counterclockwise along the 15 DME arc to the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 119°(T)/104°(M) radial at 10 DME (Lat. 35°59′55″ N., long. 114°58′49″ W.); thence clockwise along the 10 DME arc to the Las Vegas VORTAC 185°(T)/170°(M) radial (Lat. 35°54′48″ N., long. 115°10′40″ W.); thence south along that radial to 15 DME (Lat. 35°49′49″ N., long. 115°11′12″ W.); thence clockwise along the 15 DME arc to the Las Vegas 240°(T)/225°(M) radial (Lat. 35°57′15″ N., long. 115°25′35″ W.); thence northeast along that radial to 10 DME (Lat. 35°59′46″ N., long. 115°20′16″ W.); thence clockwise along the 10 DME arc to the Las Vegas VORTAC 255°(T)/240°(M) radial (Lat. 36°02′11″ N., long. 115°21′30″ W.); thence east along that radial to 8 DME (Lat. 36°02′42″ N., long. 115°19′07″ W.); thence counterclockwise along, the 8 DME arc to the Las Vegas VORTAC 185°(T)/170°(M) radial (Lat. 35°56′48″ N., long. 115°10′27″ W.);

thence north along that radial to 4.4 DME (Lat. 36°00′24″ N., long. 115°10′04″ W.); thence east along, a line direct to the point of beginning.

Area H. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas 310°(T)/295°(M) radial at 8 DME (36°09′56″ N., long. 115°17′09″ W.); thence southeast along that radial to 6 DME (Lat. 36°08′39″ N., long. 115°15′16″ W.); thence counterclockwise along the 6 DME arc to the Las Vegas VORTAC 185°(T)/170°(M) radial (Lat. 35°58′48″ N., long. 115°10′14″ W.); thence south along that radial to 8 DME (Lat. 35°56′48″ N., long. 115°10′27″ W.); thence clockwise along the 8 DME arc to the point of beginning.

Area I. That airspace extending upward from 4,500 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 310°(T)/295°(M) radial at 6 DME (Lat. 36°08′39″ N., long. 115°15′16″ W.); thence northwest along that radial to 8 DME (Lat. 36°09′56″ N., long. 115°17′09″ W.); thence counterclockwise along the 8 DME arc to the Las Vegas VORTAC 295°(T)/280°(M) radial (Lat. 36°08′10″ N., long. 115°18′32″ W.); thence northwest along that radial to 10 DME (Lat. 36°09′00″ N., long. 115°20′47″ W.); thence clockwise along the 10 DME arc to Lat. 36°14′12″ N., long.115°13′53″ W.; thence northwest along U.S. Highway 95 to Lat. 36°15′04″ N., long. 115°14′28″ W.; thence clockwise along the Las Vegas VORTAC 11 DME arc to the Las Vegas VORTAC 005°(T)/350°(M) radial (Lat. 36°15′45″ N., long. 115°08′24″ W.); thence south along the Las Vegas VORTAC 005°(T)/350°(M) radial to Lat. 36°12′04″ N., long. 115°08′47″ W.; thence clockwise along the 2.4-mile radius arc of the North Las Vegas Airport to Lat. 36°10′19″ N., long. 115°12′29″ W.; thence counterclockwise along the Las Vegas VORTAC 6 DME arc to the point of beginning.

Area J. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 005°(T)/350°(M) radial at 11 DME (Lat. 36°15′45″ N., long. 115°08′24″ W.); thence north along that radial to 15 DME (Lat. 36°19′45″ N., long. 115°07′58″ W.); thence counterclockwise along the 15 DME arc to U.S. Highway 95 (Lat. 36°18′22″ N., long. 115°17′31″ W.); thence southeast along U.S. Highway 95 to the 11 DME arc (Lat. 36°15′04″ N., long. 115°14′28″ W.); thence clockwise along the 11 DME arc to the point of beginning.

Area K. That airspace extending upward from 6,500 feet MSL to and including 10,000 feet MSL within an area beginning at the intersection of U.S. Highway 95 and the Las Vegas VORTAC 15 DME arc (Lat. 36°18′22″ N., long. 115°17′31″ W.); thence northwest along U.S. Highway 95 to intersect the Las Vegas VORTAC 20 DME arc (Lat. 36°22′11″ N., long. 115°21′49″ W.); thence clockwise along the 20 DME arc to the Las Vegas VORTAC 033°(T)/018°(M) radial (Lat. 36°21′34″ N., long. 114°56′06″ W.); thence via a line direct to the Las Vegas VORTAC 020°(T)/005°(M) radial at 15 DME (Lat. 36°18′54″ N., long. 115°03′14″ W.); thence counterclockwise along the 15 DME arc to the point of beginning.

Area L. That airspace extending upward from 7,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at the Las Vegas VORTAC 033°(T)/018°(M) radial at 36 DME (Lat. 36°34′59″ N., long. 114°45′15″ W.); thence southwest along that radial to 20 DME (Lat. 36°21′34″ N., long. 114°56′06″ W.); thence counterclockwise along the 20 DME arc to U.S. Highway 95 (Lat. 36°22′11″ N., long. 115°21′49″ W.); thence direct to the Las Vegas VORTAC 005°(T)/350°(M) radial at 36 DME (Lat. 36°40′42″ N., long. 115°05′41″ W.); thence clockwise along the 36 DME arc to the point of beginning.

Area M. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 033°(T)/018°(M) radial at 30 DME (Lat. 36°29′57″ N., long. 114°49′19″ W.); thence clockwise along the 30 DME arc to the Las Vegas VORTAC 046°(T)/031°(M) radial at 30 DME (Lat. 36°25′36″ N., long. 114°42′51″ W.); thence southwest along that radial to 25 DME (Lat. 36°22′08″ N., long. 114°47′19″ W.); thence counter clockwise along the 25 DME arc to the Las Vegas VORTAC 033°(T)/018°(M) radial (Lat. 36°25′46″ N., long. 114°52′43″ W.); thence northeast along that radial to the point of beginning.

Area N. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 033°(T)/018°(M) radial at 36 DME (Lat. 36°34′59″ N., long. 114°45′15″ W.); thence clockwise along the 36 DME arc to the Las Vegas VORTAC 046°(T)/031°(M) radial at 36 DME (Lat. 36°29′45″ N., long. 114°37′28″ W.); thence southwest along that radial to 30 DME (Lat. 36°25′36″ N., long. 114°42′51″ W.); thence counterclockwise along the 30 DME arc to the Las Vegas VORTAC 033°(T)/018°(M) radial (Lat. 36°29′57″ N., long. 114°49′19″ W.); thence northeast along that radial to the point of beginning.

Area O. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 046°(T)/031°(M) radial at 25 DME (Lat. 36°22′08″ N., long. 114°47′19″ W.); thence clockwise along the 25 DME arc to the Las Vegas VORTAC 083°(T)/068°(M) radial (Lat. 36°07′46″ N., long. 114°38′57″ W.); thence west along that radial to 22 DME (Lat. 36°07′25″ N., long. 114°42′38″ W.); thence counterclockwise along the 22 DME arc to the Las Vegas VORTAC 046°(T)/031°(M) radial (Lat. 36°20′04″ N., long 114°50′00″ W.); thence northeast along that radial to the point of beginning.

Area P. That airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 060°(T)/045°(M) radial at 25 DME (Lat. 36°17′ 15″ N., long. 114°42′ 48″ W.); thence northeast along that radial to 30 DME (Lat. 36°19′ 44″ N., long. 114°37′ 26″ W.); thence clockwise along the 30 DME arc to the Las Vegas VORTAC 115°(T)/100°(M) radial (Lat. 35°52′ 00″ N., long. 114° 36′ 08″ W.); thence northwest along that radial to 23 DME (Lat. 35°54′ 51″ N., long. 114°43′ 34″ W.); thence counterclockwise along the 23 DME arc to the Las Vegas VORTAC 083°(T)/068°(M) radial (Lat. 36°07′ 25″ N., long. 114°42′ 38″ W.); thence east along that radial to 25 DME (Lat. 36°07′ 46″ N., long. 114°38′ 57″ W.); thence counterclockwise along the 25 DME arc to the point of beginning.

Area Q. That airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 132°(T)/117°(M) radial at 15 DME (Lat.35°54′ 43″ N., long. 114°55′ 52″ W.); thence southeast along that radial to 20 DME (Lat. 35°51′ 21″ N., long. 114°51′ 18″ W.); thence clockwise along the 20 DME arc to the Las Vegas VORTAC 185°(T)/170°(M) radial (Lat. 35°44′ 50″ N., long. 115°11′ 44″ W.); thence north along that radial to 15 DME (Lat. 35°49′ 49″ N., long. 115°11′ 12″ W.); thence counterclockwise along the 15 DME arc to the point of beginning.

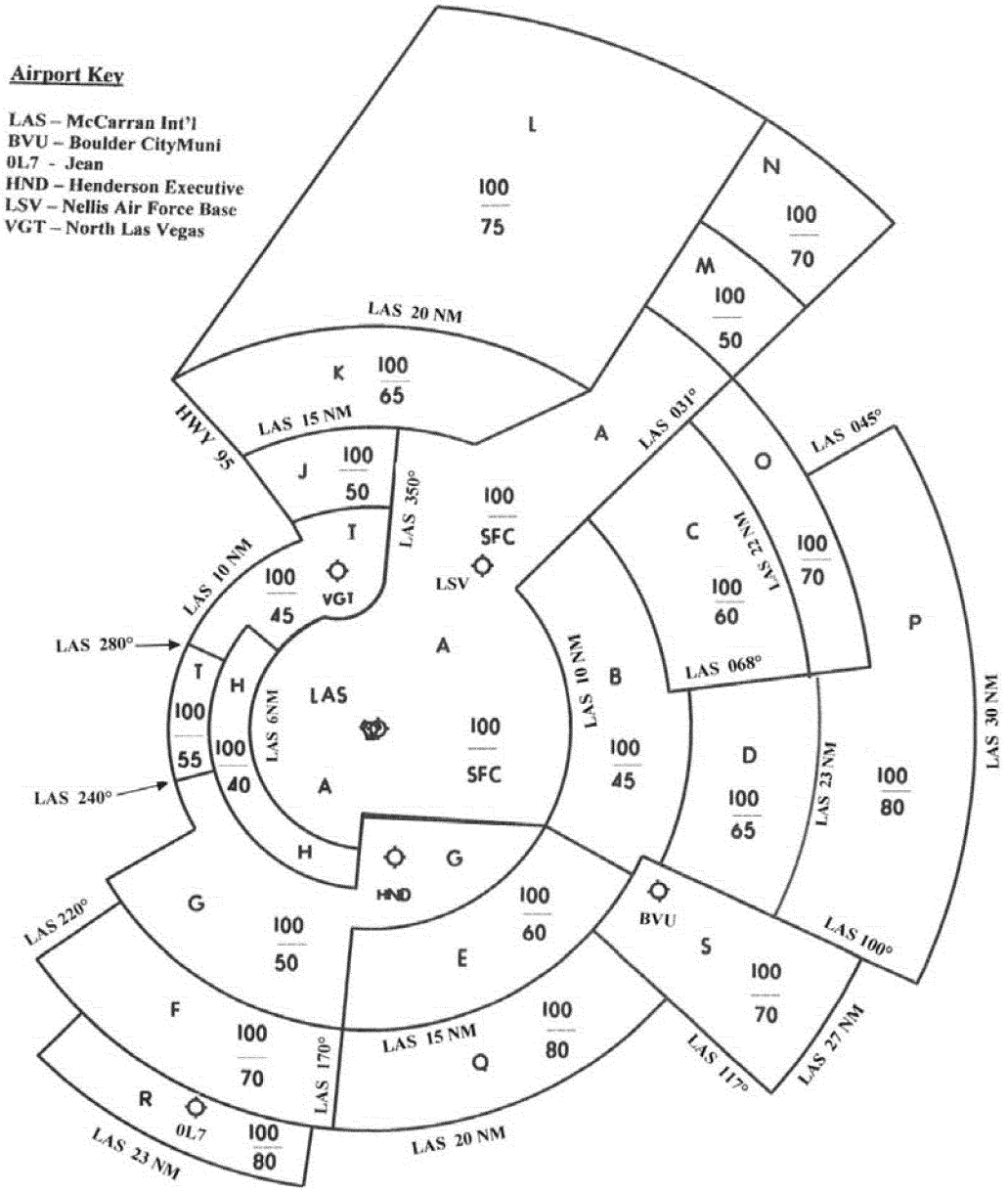
Area R. That airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at Las Vegas VORTAC 188°(T)/173°(M) radial at 20 DME (Lat. 35°44′ 57″ N., long. 115°13′ 00″ W.); thence south along that radial to 23 DME (Lat. 35°41′ 58″ N., long. 115°13′ 31″ W.); thence clockwise along the 23 DME arc to the Las Vegas VORTAC 225°(T)/210°(M) radial (Lat. 35°48′ 28″ N., long. 115°29′ 35″ W.); thence northeast along that radial to 20 DME (Lat. 35°50′ 36″ N., long. 115°26′ 59″ W.); thence counterclockwise along the 20 DME arc to the point of beginning.

Area S. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 115°(T)/100°(M) radial at 15 DME (Lat. 35°58′ 25″ N., long. 114°52′ 50″ W.); thence southeast along that radial to 27 DME (Lat. 35°53′ 18″ N., long. 114°39′ 28″ W.); thence clockwise along the 27 DME arc to the Las Vegas VORTAC 132°(T)/117°(M) radial (Lat. 35°46′ 39″ N., long. 114°44′ 56″ W.); thence northwest along that radial to 15 DME (Lat. 35°54′ 43″ N., long. 114°55′ 52″ W.); thence counterclockwise along the 15 DME arc to the point of beginning.

Area T. That airspace extending upward from 5,500 feet MSL to and including 10,000 feet MSL within an area bounded by a line beginning at the Las Vegas VORTAC 255°(T)/240°(M) radial at 8 DME (Lat. 36°02′ 42″ N., long. 115°19′ 07″ W.); thence west along that radial to 10 DME (Lat. 36°02′ 11″ N., long. 115°21′ 30″ W.); thence clockwise along the 10 DME arc to the Las Vegas VORTAC 295°(T)/280°(M) radial (Lat. 36°09′ 00″ N., long. 115°20′ 47″ W.); thence southeast along that radial to 8 DME (Lat. 36°08′ 10″ N., long. 115°18′ 32″ W.); thence counterclockwise along the 8 DME arc to the point of beginning.

BILLING CODE 4910–13–P

PROPOSED MODIFICATION OF THE LAS VEGAS, NV CLASS B AIRSPACE AREA



Issued in Washington, DC, on October 11, 2012.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2012–26335 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2009–F–0303]

Ajinomoto Co., Inc.; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Ajinomoto Co., Inc., to indicate that the petitioned additive, N-[N-[3-(3-hydroxy-4-methoxyphenyl) propyl-α-aspartyl]-L-phenylalanine 1-methyl ester, monohydrate (proposed additive name Advantame, CAS Reg. No. 714229–20–6), is for use as a non-nutritive sweetener and flavor enhancer in foods generally, except meat and poultry. The previous filing notice indicated that the proposed additive was for use as a non-nutritive sweetener

in tabletop applications and powdered beverage mixes.

DATES: Submit either electronic or written comments on the petitioner's environmental assessment by November 26, 2012.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Felicia M. Ellison, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1264.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 21, 2009 (74 FR 35871), FDA announced that a food additive petition (FAP 9A4778) had been filed by Ajinomoto, Co., Inc., c/o Ajinomoto Corporate Services LLC, 1120 Connecticut Ave. NW., Suite 1010, Washington, DC 20036 (now c/o Ajinomoto North America, Inc., 400 Kelby St., Fort Lee, NJ 07024). In the notice of filing, FDA announced that the petitioner proposed that the food additive regulations in part 172 *Food Additives Permitted for Direct Addition to Food for Human Consumption* (21 CFR part 172) be amended to provide for the safe use of N-[N-[3-(3-hydroxy-4-methoxyphenyl) propyl-α-aspartyl]-L-phenylalanine 1-methyl ester, monohydrate (CAS Reg. No. 714229–20–6) as a non-nutritive sweetener in tabletop applications and powdered beverage mixes. The petition was filed under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).

Subsequent to publication of the filing notice, Ajinomoto Co., Inc., amended its petition to provide for the safe use of N-[N-[3-(3-hydroxy-4-methoxyphenyl) propyl-α-aspartyl]-L-phenylalanine 1-methyl ester, monohydrate as a non-nutritive sweetener and flavor enhancer in foods generally, except meat and poultry. Therefore, FDA is amending the filing notice of July 21, 2009, to indicate that the petitioner has proposed that the food additive regulations in part 172 be amended to provide for the use of N-[N-[3-(3-hydroxy-4-methoxyphenyl) propyl-α-aspartyl]-L-phenylalanine 1-methyl ester, monohydrate (proposed additive name Advantame, CAS Reg. No. 714229–20–6), as a non-nutritive sweetener and flavor enhancer in foods generally, except meat and poultry.

The potential environmental impact of this petition is being reviewed. To encourage public participation consistent with regulation issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the Agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Division of Dockets Management (see **DATES** and **ADDRESSES**) for public review and comment.

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.* FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the Agency finds that an environmental impact statement is not required, and this petition results in a regulation, the notice of availability of the Agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: October 22, 2012.

Dennis M. Keefe,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2012–26315 Filed 10–25–12; 8:45 am]

BILLING CODE 4160–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0537; FRL–9744–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Delaware County (Muncie), Indiana Ozone Maintenance Plan Revision To Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Indiana's request to revise the Delaware County, Indiana 1997 8-hour ozone maintenance air quality State Implementation Plan (SIP) by replacing the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. Indiana submitted this request to EPA for parallel processing with a letter dated June 15, 2012, and followed up with a final submittal after the State public comment period ended on July 18, 2012.

DATES: Comments must be received on or before November 26, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0537, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2012–0537. 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. For additional instructions on submitting comments, go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Patricia Morris, Environmental Scientist, at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656, *patricia.morris@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What action is EPA proposing to take?
III. What is the background for this action?
a. SIP Budgets and Transportation Conformity
b. Prior Approval of Budgets
c. The MOVES Emissions Model and Regional Transportation Conformity Grace Period
d. Submission of New Budgets Based on MOVES2010a
IV. What are the criteria for approval?
V. What is EPA's analysis of the state's submittal?
a. The Revised Inventories
b. Approvability of the MOVES2010a-based Budgets
c. Applicability of MOBILE6.2-based Budgets
VI. What action is EPA taking?
VII. Statutory and Executive Order Reviews

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period

II. What action is EPA proposing to take?

EPA is proposing to approve new MOVES2010a-based budgets for the Delaware County, Indiana 1997 8-hour ozone maintenance area. The Delaware County, Indiana area was redesignated to attainment of the 1997 8-hour ozone standard effective January 3, 2006, (70 FR 69443) and the MOBILE6.2-based budgets were approved in that action. If EPA finalizes this proposed approval, the newly submitted MOVES2010a-based budgets will replace the existing, MOBILE6.2-based budgets in the State's 1997 8-hour ozone maintenance plan and must then be used in future transportation conformity analyses for the area. At that time, the previously approved MOBILE6 budgets would no longer be applicable for transportation conformity purposes.

If EPA approves the MOVES2010a-based budgets, the Delaware County 1997 8-hour ozone maintenance area must use the MOVES2010a-based budgets starting on the effective date of the final approval. See the official release of the MOVES2010 emissions model (75 FR 9411) for background and section III. (c) below for details.

III. What is the background for this action?

a. SIP Budgets and Transportation Conformity

Under the Clean Air Act (CAA), states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given National Ambient Air Quality Standard (NAAQS). These emission control strategy SIP revisions (*e.g.,* Reasonable Further Progress (RFP) and attainment demonstration SIP revisions) and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars, trucks and other on-road vehicles. These mobile source SIP budgets are the portions of the total emissions that are allocated to on-road vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance if they are not exceeded. The budget serves as a ceiling on emissions from an area's planned transportation system. For more information about budgets, see the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188).

Under section 176(c) of the CAA, transportation plans, Transportation Improvement Programs (TIPs), and transportation projects must ''conform'' to (*i.e.,* be consistent with) the SIP before they can be adopted or approved. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS or delay an interim milestone. The transportation conformity regulations can be found at 40 CFR parts 51, Subpart T, and 93.

In general, before budgets can be used in conformity determinations, EPA must affirmatively find the budgets adequate. However, budgets that are replacing approved budgets must be found adequate and approved before budgets can replace older budgets. If the submitted SIP budgets are meant to replace budgets for the same purpose, as is the case with Indiana's MOVES2010a 1997 8-hour ozone maintenance plan budgets, EPA must approve the revised SIP and budgets, and must affirm that they are adequate at the same time. Once EPA approves revised budgets into the SIP, they must be used by state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining the

adequacy of budgets are set out in 40 CFR 93.118(e)(4).

b. Prior Approval of Budgets

EPA had previously approved budgets for the Delaware County, 8-hour ozone maintenance area for volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for the year 2015 on January 3, 2006 (70 FR 69443). These budgets were based on EPA's MOBILE6.2 emissions model. The ozone maintenance plan established 2015 budgets for the Delaware County, Indiana area of 3.50 tons per day (tpd) for VOCs and 4.82 tpd for NO_X. These budgets demonstrated a reduction in emissions from the monitored attainment year and included a margin of safety.

c. The MOVES Emissions Model and Regional Transportation Conformity Grace Period

The MOVES model is EPA's state-of-the-art tool for estimating highway emissions. The model is based on analyses of millions of emission test results and considerable advances in the agency's understanding of vehicle emissions. MOVES incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design, and significant new capabilities relative to those reflected in MOBILE6.2.

EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). EPA subsequently released two minor model revisions: MOVES2010a in September 2010 and MOVES2010b in April 2012. Both of these minor revisions enhance model performance and do not significantly affect the criteria pollutant emissions results from MOVES2010.

MOVES will be required for new regional emissions analyses for transportation conformity determinations (''regional conformity analyses'') outside of California that begin after March 2, 2013, or when EPA approves MOVES-based budgets, whichever comes first.[1] The MOVES grace period for regional conformity analyses applies to both the use of MOVES2010 and approved minor revisions (*e.g.,* MOVES2010a and MOVES2010b). For more information, see EPA's ''Policy Guidance on the Use of MOVES2010 and Subsequent Minor Model Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes'' (April 2012), available online at: *www.epa.gov/otaq/stateresources/transconf/policy.htm#models.*

EPA has encouraged areas to examine how MOVES would affect future transportation plan and TIP conformity determinations so, if necessary, SIPs and budgets could be revised with MOVES or transportation plans and TIPs could be revised (as appropriate) prior to the end of the regional transportation conformity grace period. EPA has also encouraged state and local air agencies to consider how the release of MOVES would affect analyses supporting SIP submissions under development (77 FR 9411 and 77 FR 11394).

The Delaware-Muncie Metropolitan Plan Commission (DMMPC), which is the Metropolitan Planning Organization (MPO) for the Delaware County area, has used MOVES2010a emission rates with the transportation network information to estimate emissions in the years of the transportation plan and also for the SIP. Indiana is revising the budgets at this time using the latest planning assumptions including population and employment updates. In addition, newer vehicle registration data has been used to update the age distribution of the vehicle fleet. Since MOVES2010 (or a minor model revision) will be required for conformity analyses after the grace period ends, Indiana has concluded that updating the budgets with MOVES2010a will prepare the areas for the transition to using MOVES for conformity analyses and determinations. The interagency consultation group has had extensive consultation on the requirements and need for new budgets.

d. Submission of New Budgets Based on MOVES2010a

On June 15, 2012, Indiana submitted for parallel processing replacement budgets based on MOVES2010a for the Delaware County area. Indiana provided public review and comment which ended on July 18, 2012. There were no comments. Indiana submitted the final SIP revision request on August 17, 2012.

The MOVES2010a budgets are proposed to replace the prior approved MOBILE6.2 budgets and are for the same year and pollutants/precursors. The new MOVES2010a budgets are for the year 2015 for both VOCs and NO_X and are detailed in a Table in section V(b) of this notice. Indiana has also provided total emissions including mobile emissions based on MOVES2010a, for the attainment year of 2002, the interim year 2010 and the 2015 maintenance year. The total safety margin available in 2015 for NO_X is 15.36 tpd and for VOC is 4.76 tpd. This information is detailed in the submittal and provided in the following table. The safety margin is defined as the reduction in emissions from the base year (in this case the 2002 attainment year) to the final year of the maintenance plan (in this case the 2015 year). The total emissions include point, area, non-road and on-road mobile sources.

TABLE OF TOTAL EMISSIONS WITH MOVES2010A MOBILE EMISSIONS

Year	2002	2010	2015	Safety margin
VOC	26.08	21.36	21.32	4.76
NO_X	26.17	15.73	10.81	15.36

Indiana has added only a small portion of the overall safety margin available for NO_X and VOCs to the budgets for 2015. The submittal demonstrates how all emissions decline from the attainment year of 2002. In 2002, the total estimated NO_X emissions from all sources (including mobile, point, area and non-road sources) is 26.17 tpd and the total VOC emissions, for the 2002 attainment year, from all sources is 26.08 tpd. The 2015 estimated emissions for total NO_X from all sources is 10.81 tpd and the total VOC emissions from all sources is 21.32 tpd. This is further discussed in section V of this notice and detailed in the table of total emissions in section V. This reduction in emissions demonstrates that the area will continue below the attainment level of emissions and maintain the 1997 8-hour ozone standard. The mobile source emissions, when included with point, area, and

[1] Upon the release of MOVES2010, EPA established a two-year grace period before MOVES is required to be used for regional conformity analyses (75 FR 9411). EPA subsequently promulgated a final rule on February 27, 2012 to provide an additional year before MOVES is required for these analyses (77 FR 11394). In this case the grace period ends on March 2, 2013.

non-road sources continue to demonstrate maintenance of the attainment level of emissions in the Delaware County area.

No additional control measures were needed to maintain the 1997 ozone standard in the Delaware County area. An appropriate safety margin for NO_X and VOCs was decided by the interagency consultation group (the interagency consultation group as required by the state conformity agreement consists of representatives from the Federal Highway Administration, the Indiana Department of Transportation, the Indiana Department of Environmental Management (IDEM), and EPA). The allocation of safety margin is included in Table 5.2–A of the Indiana submittal. The on-road MOVES2010a based budgets are in Table 5.2–A of the submittal and are listed as 7.02 tpd for NO_X and 2.53 tpd for VOCs in the year 2015. These budgets will continue to keep emissions in the Delaware County area below the calculated attainment year of emissions.

IV. What are the criteria for approval?

EPA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (*e.g.,* RFP, attainment, or maintenance). States that revise their existing SIPs to include MOVES budgets must therefore show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions contained in the budgets. The SIP must also meet any applicable SIP requirements under CAA section 110.

In addition, the transportation conformity rule (at 40 CFR 93.118(e)(4)(iv)) requires that ''the budgets, when considered together with all other emissions sources, is consistent with applicable requirements for RFP, attainment, or maintenance (whichever is relevant to the given implementation plan submission).'' This and the other adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate and approve them for conformity purposes.

In addition, areas can revise their budgets and inventories using MOVES without revising their entire SIP if (1) the SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES base year and milestone, attainment, or maintenance year inventories, and (2) the state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP. For example, the first criterion could be satisfied by demonstrating that the emissions reductions between the baseline/attainment year and maintenance year are the same or greater using MOVES than they were previously. The Indiana submittal meets this requirement as described below in section V.

For more information, see EPA's latest ''Policy Guidance on the Use of MOVES2010 for SIP Development, Transportation Conformity, and Other Purposes'' (April 2012), available online at: *www.epa.gov/otaq/stateresources/transconf/policy.htm#models.*

V. What is EPA's analysis of the State's submittal?

a. The Revised Inventories

The Indiana SIP revision request for Delaware County 1997 ozone maintenance seeks to revise only the on-road mobile source inventories and not the non-road inventories, area source inventories or point source inventories for the 2015 year for which the SIP revises the budgets. IDEM has certified that the control strategies remain the same as in the original SIP, and that no other control strategies are necessary. This is confirmed by the monitoring data for Delaware County, which continues to monitor attainment for the 1997 8-hour ozone standard. The area is also monitoring attainment for the 2008 8-hour ozone standard. Thus, the current control strategies are continuing to keep the area in attainment of the NAAQS.

EPA has reviewed the emission estimates for point, area and non-road sources and concluded that no major changes to the projections need to be made. Indiana finds that growth and control strategy assumptions for non-mobile sources (*i.e.,* area, non-road, and point) have not changed significantly from the original submittal for the years 2002, 2010, and 2015. As a result, the growth and control strategy assumptions for the non-mobile sources for the years 2002, 2010, and 2015 continue to be valid and do not affect the overall conclusions of the plan.

Indiana's submission confirms that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard because the emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions in the revised SIP (which includes MOVES2010a emissions from mobile sources) are 26.17 tpd for NO_X and 26.08 tpd for VOCs in the 2002 attainment year. The total emissions from all sources in the 2015 year are 10.81 tpd for NO_X and 21.32 tpd for VOCs. These totals demonstrate that emissions in the Delaware County area are continuing to decline and remain below the attainment levels.

Indiana has submitted MOVES2010a-based budgets for the Delaware County area that are clearly identified in Table 5.2–A of the submittal. The on-road budgets for 2015 are 7.02 tpd for NO_X and 2.53 tpd for VOCs. These are the budgets that are being proposed for approval.

b. Approvability of the MOVES2010a-based Budgets

EPA is proposing to approve the MOVES2010a-based budgets submitted by the State for use in determining transportation conformity in the Delaware County 1997 ozone maintenance area. EPA is making this proposal based on our evaluation of these budgets using the adequacy criteria found in 40 CFR 93.118(e)(4) and our in-depth evaluation of the State's submittal and SIP requirements. EPA has determined, based on its evaluation, that the area's maintenance plan would continue to serve its intended purpose with the submitted MOVES2010a-based budgets and that the budgets themselves meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4).

The adequacy criteria found in 40 CFR 93.118(e)(4) are as follows:

- The submitted SIP was endorsed by [the Governor/Governor's designee] and was subject to a state public hearing (§ 93.118(e)(4)(i));
- Before the control strategy implementation plan was submitted to EPA, consultation among Federal, state, and local agencies occurred, and the state fully documented the submittal (§ 93.118(e)(4)(ii));
- The budgets are clearly identified and precisely quantified (§ 93.118(e)(4)(iii));
- The budgets, when considered together with all other emissions sources, are consistent with applicable requirements for RFP, attainment, or maintenance (§ 93.118(e)(4)(iv));
- The budgets are consistent with and clearly related to the emissions inventory and control measures in the control strategy implementation plan (§ 93.118(e)(4)(v); and
- The revisions explain and document changes to the previous budgets, impacts on point and area source emissions and changes to established safety margins and reasons for the changes (including the basis for any changes related to emission factors

or vehicle miles traveled) (§ 93.118(e)(4)(vi).

We find that Indiana has met all of the adequacy criteria. The final submittal is dated August 17, 2012, and signed by the governor's designee. All public hearing materials were submitted with the formal SIP revision request. The interagency consultation group, which is composed of the state air agency, state Department of Transportation, Federal Highway Administration, EPA, and the MPO for the area, has discussed and reviewed the budgets developed with MOVES2010a and the safety margin allocation. The budgets are clearly identified and precisely quantified in the submittal in table 5.2–A. The budgets when considered with other emissions sources (point, area, non-road) are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the model are detailed in the Appendix to the submittal. EPA has reviewed the inputs to the MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration—Indiana Division and the Indiana Department of Transportation have taken a lead role in working with the MPO and contractor to provide accurate, timely information and inputs to the MOVES2010a model runs. The DMMPC network model provided the vehicle miles of travel and other necessary data from the travel demand network model.

The CAA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (in this case, maintenance). Therefore, states that revise existing SIPs with MOVES must show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions calculated by the new model.

To that end, Indiana's submitted MOVES2010a budgets meet EPA's two criteria for revising budgets without revising the entire SIP:

(1) The SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES2010a base year and milestone, attainment, or maintenance year inventories, and

(2) The state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP.

The State has documented that growth and control strategy assumptions continue to be valid and do not change the overall conclusions of the maintenance plan. The emission estimates for point, area and non-road sources have not changed. Indiana finds that growth and control strategy assumptions for non-mobile sources (*i.e.* area, non-road, and point) from the original submittal for the years 2002, 2010, 2015 were developed before the down-turn in the economy over the last several years. Because of this, the factors included in the original submittal may project more growth than actual into the future. As a result, the growth and control strategy assumptions for the non-mobile sources for the years 2002, 2010, and 2015 continue to be valid and do not affect the overall conclusions of the plan.

Indiana's submission confirms that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard because the emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions in the revised SIP (which includes MOVES2010a emissions for mobile sources) decrease from the 2002 attainment year to the year 2015 (the last year of the maintenance plan). These totals demonstrate that emissions in the Delaware County area are continuing to decline and remain below the attainment levels. The table below, displays total emissions in the Delaware County area including point, area, non-road, and mobile sources and demonstrates the declining emissions from the 2002 attainment year.

TABLE OF TOTAL EMISSIONS WITH MOVES2010A MOBILE EMISSIONS

Year	2002	2010	2015
VOC	26.08	21.36	21.32
NO_X	26.17	15.73	10.81

The following table displays the submitted budgets that are proposed in the notice to be approved. The budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level.

TABLE OF MOTOR VEHICLE EMISSION BUDGETS (MOVES) DELAWARE COUNTY, INDIANA FOR YEAR 2015

VOC (tpd)	2.53
NO_X (tpd)	7.02

Based on our review of the SIP and the new budgets provided, EPA has determined that the SIP will continue to meet its requirements if the revised motor vehicle emissions inventories are replaced with MOVES2010a inventories.

c. Applicability of MOBILE6.2-based Budgets

Pursuant to the State's request, EPA is proposing that, if we finalize the approval of the revised budgets, the State's existing MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes upon the effective date of that final approval.

In addition, once EPA approves the MOVES2010a-based budgets, the regional transportation conformity grace period for using MOBILE6 instead of MOVES2010 (and subsequent minor revisions) for the pollutants included in these budgets will end for the Delaware County ozone maintenance area on the effective date of that final approval.[2]

VI. What action is EPA taking?

EPA is proposing in this action that the Delaware County, Indiana existing approved budgets for VOCs and NO_X for 2015 for the 1997 8-hour ozone maintenance plan, that were based on the MOBILE6.2 emissions model, be replaced with new budgets based on the MOVES2010a emissions model. Once this proposal is finalized, future transportation conformity determinations would use the new, MOVES2010a-based budgets and would no longer use the existing MOBILE6.2-based budgets. EPA is also proposing to find that the Delaware County area's maintenance plan would continue to meet its requirements as set forth under the CAA when these new budgets are included.

VII. 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 approves state law as meeting Federal requirements and does not impose additional requirements beyond

[2] For more information, see EPA's ''Policy Guidance on the Use of MOVES2010 and Subsequent Minor Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes'' (April 2012).

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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: October 12, 2012.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2012–26384 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0799; FRL–9747–3]

Determination of Attainment for the Sacramento Nonattainment Area for the 2006 Fine Particle Standard; California; Determination Regarding Applicability of Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Sacramento nonattainment area in California has attained the 2006 24-hour fine particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS). This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS based on the 2009–2011 monitoring period. EPA is further proposing that, if EPA finalizes this determination of attainment, the requirements for this area to submit an attainment demonstration, together with reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines shall be suspended for so long as the area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2012–0799 by one of the following methods:

1. Federal eRulemaking Portal, at *www.regulations.gov,* please follow the on-line instructions;
2. Email to *ungvarsky.john@epa.gov;* or
3. Mail or delivery to John Ungvarsky, Air Planning Office, AIR–2, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information you consider to be CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, (415) 972–3963, or by email at *ungvarsky.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' are used, we mean EPA. We are providing the following outline to aid in locating information in this proposal.

Table of Contents

I. What determination is EPA making?
II. What is the background for this action?
  A. $PM_{2.5}$ NAAQS
  B. Designation of $PM_{2.5}$ Nonattainment Areas
  C. How does EPA make attainment determinations?
III. What is EPA's analysis of the relevant air quality data?
  A. Monitoring Network and Data Considerations
  B. Evaluation of Current Attainment
IV. How does EPA's Clean Data Policy apply to this action?
  A. Application of EPA's Clean Data Policy to the 2006 p.m.$_{2.5}$ NAAQS
  B. History and Basis of EPA's Clean Data Policy
V. EPA's Proposed Action and Request for Public Comment

VI. Statutory and Executive Order Reviews

I. What determination is EPA making?

EPA is proposing to determine that the Sacramento nonattainment area has clean data for the 2006 24-hour NAAQS for fine particles (generally referring to particles less than or equal to 2.5 micrometers in diameter, $PM_{2.5}$). This determination is based upon complete, quality-assured, and certified ambient air monitoring data showing the area has monitored attainment of the 2006 $PM_{2.5}$ NAAQS based on 2009–2011 monitoring data. Preliminary data in EPA's Air Quality System (AQS) for 2012 indicate that the area continues to attain the 2006 $PM_{2.5}$ NAAQS. Based on this determination, we are also proposing to suspend the obligations on the State of California to submit certain state implementation plan (SIP) revisions related to attainment of this standard for the Sacramento nonattainment area for as long as the area continues to attain the standard.

II. What is the background for this action?

A. $PM_{2.5}$ NAAQS

Under section 109 of the Clean Air Act (CAA or ''Act''), EPA has established National Ambient Air Quality Standards (NAAQS or ''standards'') for certain pervasive air pollutants (referred to as ''criteria pollutants'') and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established.

On July 18, 1997, EPA revised the NAAQS for particulate matter to add new standards for $PM_{2.5}$, using $PM_{2.5}$ as the indicator for the pollutant. EPA established primary and secondary [1] annual and 24-hour standards for $PM_{2.5}$ (62 FR 38652). The annual standard was set at 15.0 micrograms per cubic meter (μg/m³), based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and the 24-hour standard was set at 65 μg/m³, based on the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations at each population-oriented monitor within an area.

On October 17, 2006 (71 FR 61144), EPA revised the level of the 24-hour $PM_{2.5}$ NAAQS to 35 μg/m³, based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA also retained the 1997 annual $PM_{2.5}$ standard at 15.0 μg/m³ based on a 3-year average of annual mean $PM_{2.5}$ concentrations, but with tighter constraints on the spatial averaging criteria.

B. Designation of $PM_{2.5}$ Nonattainment Areas

Effective December 14, 2009, EPA established the initial air quality designations for most areas in the United States for the 2006 24-hour $PM_{2.5}$ NAAQS. See 74 FR 58688; (November 13, 2009). Among the various areas designated in 2009, EPA designated the Sacramento [2] area in California as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS.[3] The boundaries for this area are described in 40 CFR 81.305.

Within three years of the effective date of designations, states with areas designated as nonattainment for the 2006 $PM_{2.5}$ NAAQS are required to submit SIP revisions that, among other elements, provide for implementation of reasonably available control measures (RACM), reasonable further progress (RFP), attainment of the standard as expeditiously as practicable but no later than five years from the nonattainment designation (in this instance, no later than December 14, 2014), as well as contingency measures. See CAA section 172(a)(2), 172(c)(1), 172(c)(2), and 172(c)(9). Prior to the due date for submittal of these SIP revisions, the State of California requested that EPA make determinations that the Sacramento [4] nonattainment area has attained the 2006 $PM_{2.5}$ NAAQS and that attainment-related SIP submittal requirements are not applicable for as long as the area continues to attain the standard. Today's proposal responds to the State's request.

C. How does EPA make attainment determinations?

A determination of whether an area's air quality currently meets the $PM_{2.5}$ NAAQS is generally based upon the most recent three years of complete, quality-assured data gathered at established State and Local Air Monitoring Stations (SLAMS) in a nonattainment area and entered into the AQS database. Data from air monitors operated by state/local agencies in compliance with EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in AQS when determining the attainment status of areas. See 40 CFR 50.13; 40 CFR part 50, appendix L; 40 CFR part 53; 40 CFR part 58, and 40 CFR part 58, appendices A, C, D, and E. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix N.

Under EPA regulations in 40 CFR part 50, section 50.13 and in accordance with appendix N, the 2006 24-hour $PM_{2.5}$ standard is met when the design value is less than or equal to 35 μg/m³ (based on the rounding convention in 40 CFR part 50, appendix N) at each monitoring site within the area.[5] The $PM_{2.5}$ 24-hour average is considered valid when 75 percent of the hourly averages for the 24-hour period are available. Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.

III. What is EPA's analysis of the relevant air quality data?

A. Monitoring Network and Data Considerations

In the Sacramento $PM_{2.5}$ nonattainment area, the agencies responsible for assuring that the area meets air quality monitoring requirements include CARB, Sacramento Metropolitan Air Quality Management District (SMAQMD), Placer County Air Pollution Control District (PCAPCD) and Yolo-Solano Air Quality Management District (YSAQMD). Both CARB and SMAQMD submit annual monitoring network plans to EPA. SMAQMD network plans describe the monitoring network operated by SMAQMD and CARB in Sacramento County, and CARB's network plans describe the monitoring sites CARB operates, in addition to monitoring sites operated by smaller air districts, namely, PCAPCD and YSAQMD. These plans discuss the status of the air monitoring network, as required under 40 CFR 58.10.

[1] For a given air pollutant, ''primary'' National Ambient Air Quality Standards are those determined by EPA as requisite to protect the public health, and ''secondary'' standards are those determined by EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

[2] The Sacramento $PM_{2.5}$ nonattainment area includes Sacramento County, the western portions of El Dorado and Placer counties, and the eastern portions of Solano and Yolo counties. Other than the El Dorado County portion of the nonattainment area, the Sacramento $PM_{2.5}$ nonattainment area lies within the Sacramento Valley Air Basin.

[3] With respect to the annual $PM_{2.5}$ NAAQS, this area is designated as ''unclassifiable/attainment.''

[4] On May 2, 2012, James Goldstene, Executive Officer of the California Air Resources Board, submitted a request to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, to find the Sacramento $PM_{2.5}$ nonattainment area had attained the 2006 24-hour $PM_{2.5}$ NAAQS.

[5] The $PM_{2.5}$ 24-hour standard design value is the 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site [see 40 CFR part 50, appendix N, section 1.0(c)], and the 24-hour $PM_{2.5}$ NAAQS is met when the 24-hour standard design value at each monitoring site is less than or equal to 35 μg/m³.

Since 2007, EPA regularly reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to $PM_{2.5}$, EPA has found that the areas' network plans, submitted by CARB and SMAQMD, meet the applicable requirements under 40 CFR part 58. See EPA letters to CARB and SMAQMD approving their annual network plans for years 2009, 2010, and 2011.[6] [7] EPA also concluded [8] from its Technical System Audit of the CARB Primary Quality Assurance Organization (PQAO) (conducted during the summer of 2007), that the combined ambient air monitoring network operated by CARB and the local air districts in their PQAO (which includes SMAQMD, PCAPCD, and YSAQMD) currently meets or exceeds the requirements for the minimum number of SLAMS for $PM_{2.5}$ in the Sacramento nonattainment area. CARB annually certifies that the data it submits to AQS are complete and quality-assured.[9]

There were five $PM_{2.5}$ SLAMS located throughout the Sacramento $PM_{2.5}$ nonattainment area in calendar years 2009, 2010, and 2011. EPA defines specific monitoring site types and spatial scales of representativeness to characterize the nature and location of required monitors. For the five sites, the spatial scale is neighborhood scale, and monitoring objective is population exposure. In addition, the Sacramento-Del Paso Manor site has a monitoring objective of highest concentration.[10]

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the quality-assured, and certified $PM_{2.5}$ ambient air monitoring data as recorded in AQS for the applicable monitoring period collected at the monitoring sites in the Sacramento nonattainment area and determined that the data are complete.

B. Evaluation of Current Attainment

EPA's evaluation of whether the Sacramento $PM_{2.5}$ nonattainment area has attained the 2006 24-hour $PM_{2.5}$ NAAQS is based on our review of the monitoring data and takes into account the adequacy [11] of the $PM_{2.5}$ monitoring network in the nonattainment area and the reliability of the data collected by the network as discussed in the previous section of this document.

Table 1 shows the $PM_{2.5}$ design values for the Sacramento nonattainment area monitors based on ambient air quality monitoring data for the most recent complete three-year period (2009–2011). The data show that the design value for the 2009–2011 period was equal to or less than 35 μg/m³ at the monitors. Therefore, we are proposing to determine, based on the complete, quality-assured data for 2009–2011, that the Sacramento area has attained the 2006 24-hour $PM_{2.5}$ standard. Preliminary data available in AQS for 2012 indicate that the area continues to attain the standard.

TABLE 1—2009–2011 24-HOUR $PM_{2.5}$ MONITORING SITES AND DESIGN VALUES FOR THE SACRAMENTO NONATTAINMENT AREA

Monitoring site	AQS site identification No.	98th Percentile (μg/m³)			2009–2011 Design values (μg/m³)
		2009	2010	2011	
Roseville	06–061–0006	21.3	20.3	23.0	22
Sacramento-Del Paso Manor	06–067–0006	38.7	27.0	39.8	35[a]
Sacramento-1309 T Street	06–067–0010	27.2	27.3	45.1	33
Sacramento Health Dept—Stockton Blvd	06–067–4001	34.9	26.5	44.8	35[a]
Woodland	06–113–1003	27.4	18.6	25.8	24

[a] The average of the 98th percentile values for 2009–2011 equals 35.2 and 35.4 at the Del Paso Manor and Stockton Blvd. sites, respectively, but consistent with applicable rounding conventions in 40 CFR part 50, Appendix N, section 4.3, 24-hour standard design values are rounded to the nearest 1 μg/m³ (decimals 0.5 and greater are rounded up to the nearest whole number, and any decimal lower than 0.5 is rounded down to the nearest whole number).

Source: Design Value Report, August 31, 2012 (in the docket to this proposed action).

IV. How does EPA's Clean Data Policy apply to this action?

A. Application of EPA's Clean Data Policy to the 2006 $PM_{2.5}$ NAAQS

In April 2007, EPA issued its $PM_{2.5}$ Implementation Rule for the 1997 $PM_{2.5}$ standard. 72 FR 20586; (April 25, 2007). In March, 2012, EPA published implementation guidance for the 2006 $PM_{2.5}$ standard. *See* Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, ''Implementation Guidance for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' (March 2, 2012). In that guidance, EPA stated its view ''that the overall framework and policy approach of the 2007 $PM_{2.5}$ Implementation Rule continues to provide effective and

[6] Letter from Joe Lapka, Acting Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (November 24, 2009) (approving CARB's ''2009 Annual Monitoring Network Report for Small Districts in California''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (October 29, 2010) (approving CARB's ''2010 Annual Monitoring Network Plan for the Small Districts in California''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (November 1, 2011) (approving CARB's ''2011 Annual Monitoring Network Plan for the Small Districts in California'').

[7] Letter from Joe Lapka, Acting Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Larry Greene, Air Pollution Control Officer, SMAQMD (September 29, 2009) (approving the 2009 Air Monitoring Network Plan for the Sacramento Metropolitan Air Quality Management District); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Larry Greene, Air Pollution Control Officer, SMAQMD (November 1, 2010) (approving the ''Sacramento Metropolitan Air Quality Management District's 2010 Annual Monitoring Network Plan''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Larry Greene, Air Pollution Control Officer, SMAQMD (October 31, 2011) (approving the ''Sacramento Metropolitan Air Quality Management District's 2011 Annual Monitoring Network Plan'').

[8] See letter from Deborah Jordan, Director, Air Division, U.S. EPA Region IX, to James Goldstene, Executive Officer, CARB, transmitting ''Technical System Audit of the California Environmental Protection Agency Air Resources Board: 2007,'' with enclosure, August 18, 2008.

[9] See, e.g., letter from Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying calendar year 2011 ambient air quality data and quality assurance data, May 1, 2012.

[10] See CARB's 2011 Annual Monitoring Network Report for Small Districts in California and SMAQMD's 2011 Annual Monitoring Network Plan; U.S. EPA Air Quality System, Monitor Description Report, September 14, 2012.

[11] Meets the requirements of 40 CFR part 58.

appropriate guidance on the EPA's interpretation of the general statutory requirements that states should address in their SIPs. In general, the EPA believes that the interpretations of the statute in the framework of the 2007 $PM_{2.5}$ Implementation Rule are relevant to the statutory requirements for the 2006 24-hour $PM_{2.5}$ NAAQS * * *'' *Id.,* page 1. With respect to the statutory provisions applicable to 2006 $PM_{2.5}$ implementation, the guidance emphasized that ''EPA outlined its interpretation of many of these provisions in the 2007 $PM_{2.5}$ Implementation Rule. In addition to regulatory provisions, the EPA provided substantial general guidance for attainment plans for $PM_{2.5}$ in the preamble to the final the [*sic*] 2007 $PM_{2.5}$ Implementation Rule.'' *Id.,* page 2. In keeping with the principles set forth in the guidance, and with respect to the effect of a determination of attainment for the 2006 $PM_{2.5}$ standard, EPA is applying the same interpretation with respect to the implications of clean data determinations that it set forth in the preamble to the 1997 $PM_{2.5}$ standard and in the regulation that embodies this interpretation. 40 CFR 51.1004(c).[12] EPA has long applied this interpretation in regulations and individual rulemakings for the 1-hour ozone and 1997 8-hour ozone standards, the PM–10 standard, and the lead standard.

B. History and Basis of EPA's Clean Data Policy

Following enactment of the CAA Amendments of 1990, EPA promulgated its interpretation of the requirements for implementing the NAAQS in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (General Preamble) 57 FR 13498, 13564 (April 16, 1992). In 1995, based on the interpretation of CAA sections 171 and 172, and section 182 in the General Preamble, EPA set forth what has become known as its ''Clean Data Policy'' for the 1-hour ozone NAAQS. *See* Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard'' (May 10, 1995). In 2004, EPA indicated its intention to extend the Clean Data Policy to the $PM_{2.5}$ NAAQS. *See* Memorandum from Steve Page, Director, EPA Office of Air Quality Planning and Standards, ''Clean Data Policy for the Fine Particle National Ambient Air Quality Standards'' (December 14, 2004).

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment. *See* 60 FR 36723 (July 18, 1995) (Salt Lake and Davis Counties, Utah, 1-hour ozone); 61 FR 20458 (May 7, 1996) (Cleveland-Akron-Lorain, Ohio, 1-hour ozone); 61 FR 31832 (June 21, 1996) (Grand Rapids, Michigan, 1-hour ozone); 65 FR 37879 (June 19, 2000) (Cincinnati-Hamilton, Ohio-Kentucky, 1-hour ozone); 66 FR 53094 (October 19, 2001) (Pittsburgh-Beaver Valley, Pennsylvania, 1-hour ozone); 68 FR 25418 (May 12, 2003) (St. Louis, Missouri-Illinois, 1-hour ozone); 69 FR 21717 (April 22, 2004) (San Francisco Bay Area, California, 1-hour ozone); 75 FR 6570 (February 10, 2010) (Baton Rouge, Louisiana, 1-hour ozone); 75 FR 27944 (May 19, 2010) (Coso Junction, California, PM_{10}).

EPA also incorporated its interpretation under the Clean Data Policy in several implementation rules. *See* Clean Air Fine Particle Implementation Rule, 72 FR 20586 (April 25, 2007); Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2, 70 FR 71612 (November 29, 2005). The Court of Appeals for the District of Columbia Circuit (D.C. Circuit) upheld EPA's rule embodying the Clean Data Policy for the 1997 8-hour ozone standard. *NRDC* v. *EPA,* 571 F.3d 1245 (D.C. Cir. 2009). Other courts have reviewed and considered individual rulemakings applying EPA's Clean Data Policy, and have consistently upheld them in every case. *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996); *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004); *Our Children's Earth Foundation* v. *EPA,* No. 04–73032 (9th Cir. June 28, 2005 (Memorandum Opinion)), *Latino Issues Forum* v. *EPA,* Nos. 06–75831 and 08–71238 (9th Cir. March 2, 2009 (Memorandum Opinion)).

EPA sets forth below a brief explanation of the statutory interpretations in the Clean Data Policy. EPA also incorporates the discussions of its interpretation set forth in prior rulemakings, including the 1997 $PM_{2.5}$ implementation rulemaking. *See* 72 FR 20586, at 20603–20605 (April 25, 2007). *See also* 75 FR 31288 (June 3, 2010) (Providence, Rhode Island, 1997 8-hour ozone); 75 FR 62470 (October 12, 2010) (Knoxville, Tennessee, 1997 8-hour ozone); 75 FR 53219 (August 31, 2010) (Greater Connecticut Area, 1997 8-hour ozone); 75 FR 54778 (September 9, 2010) (Baton Rouge, Louisiana, 1997 8-hour ozone); 75 FR 64949 (October 21, 2010) (Providence, Rhode Island, 1997 8-hour ozone); 76 FR 11080 (March 1, 2011) (Milwaukee-Racine and Sheboygan Areas, Wisconsin, 1997 8-hour ozone); 76 FR 31237 (May 31, 2011) (Pittsburgh-Beaver Valley, Pennsylvania, 1997 8-hour ozone); 76 FR 33647 (June 9, 2011) (St. Louis, Missouri-Illinois, 1997 8-hour ozone); 76 FR 70656 (November 15, 2011) (Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina, 1997 8-hour ozone); 77 FR 31496 (May 29, 2012) (Boston-Lawrence-Worchester, Massachusetts, 1997 8-hour ozone). *See also,* 75 FR 56 (January 4, 2010) (Greensboro-Winston-Salem-High Point, North Carolina, 1997 $PM_{2.5}$); 75 FR 230 (January 5, 2010) (Hickory-Morganton-Lenoir, North Carolina, 1997 $PM_{2.5}$); 76 FR 12860 (March 9, 2011) (Louisville, Kentucky-Indiana, 1997 $PM_{2.5}$); 76 FR 18650 (April 5, 2011) (Rome, Georgia, 1997 $PM_{2.5}$); 76 FR 31239 (May 31, 2011) (Chattanooga, Tennessee-Georgia-Alabama, 1997 $PM_{2.5}$); 76 FR 31858 (June 2, 2011) (Macon, Georgia, 1997 $PM_{2.5}$); 76 FR 36873 (June 23, 2011) (Atlanta, Georgia, 1997 $PM_{2.5}$); 76 FR 38023 (June 29, 2011) (Birmingham, Alabama, 1997 $PM_{2.5}$); 76 FR 55542 (September 7, 2011) (Huntington-Ashland, West Virginia-Kentucky-Ohio, 1997 $PM_{2.5}$); 76 FR 60373 (September 29, 2011) (Cincinnati, Ohio-Kentucky-Indiana, 1997 $PM_{2.5}$); 77 FR 18922 (March 29, 2012) (Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown and Lancaster, Pennsylvania, 1997 $PM_{2.5}$).

The Clean Data Policy represents EPA's interpretation that certain requirements of subpart 1 of part D of the Act are by their terms not applicable to areas that are currently attaining the NAAQS.[13] As explained below, the specific requirements that are inapplicable to an area attaining the standard are the requirements to submit a SIP that provides for: attainment of the NAAQS; implementation of all reasonably available control measures; reasonable further progress (RFP); and implementation of contingency measures for failure to meet deadlines for RFP and attainment.

CAA section 172(c)(1), the requirement for an attainment demonstration, provides in relevant part that SIPs ''shall provide for attainment

[12] While EPA recognizes that 40 CFR 51.1004(c) does not itself expressly apply to the 2006 $PM_{2.5}$ standard, the statutory interpretation that it embodies is identical and is applicable to both the 1997 and 2006 $PM_{2.5}$ standards.

[13] This discussion refers to subpart 1 because subpart 1 contains the requirements relating to attainment of the 2006 $PM_{2.5}$ NAAQS.

of the [NAAQS].'' EPA has interpreted this requirement as not applying to areas that have already attained the standard. If an area has attained the standard, there is no need to submit a plan demonstrating how the area will reach attainment. In the General Preamble (57 FR 13564), EPA stated that no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached.'' *See also* Memorandum from John Calcagni, ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' (September 4, 1992), at page 6.

A component of the attainment plan specified under section 172(c)(1) is the requirement to provide for ''the implementation of all reasonably available control measures as expeditiously as practicable'' (RACM). Since RACM is an element of the attainment demonstration, *see* General Preamble (57 FR 13560), for the same reason the attainment demonstration no longer applies by its own terms, RACM also no longer applies to areas that EPA has determined have clean air. Furthermore, EPA has consistently interpreted this provision to require only implementation of such potential RACM measures that could advance attainment.[14] Thus, where an area is already attaining the standard, no additional RACM measures are required. EPA's interpretation that the statute requires only implementation of the RACM measures that would advance attainment was upheld by the United States Court of Appeals for the Fifth Circuit (*Sierra Club* v. *EPA,* 314 F.3d 735, 743–745, 5th Cir. 2002) and by the United States Court of Appeals for the D.C. Circuit (*Sierra Club* v. *EPA,* 294 F.3d 155, 162–163, D.C. Cir. 2002). *See also* the final rulemakings for Pittsburgh-Beaver Valley, Pennsylvania, 66 FR 53096 (October 19, 2001) and St. Louis, Missouri-Illinois, 68 FR 25418 (May 12, 2003).

CAA section 172(c)(2) provides that SIP provisions in nonattainment areas must require ''reasonable further progress.'' The term ''reasonable further progress'' is defined in section 171(1) as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.'' Thus, by definition, the ''reasonable further progress'' provision under subpart 1 requires only such reductions in emissions as are necessary to attain the NAAQS. If an area has attained the NAAQS, the purpose of the RFP requirement has been fulfilled, and since the area has already attained, showing that the State will make RFP towards attainment ''[has] no meaning at that point.'' General Preamble, 57 FR 13498, 13564 (April 16, 1992).

CAA section 172(c)(9) provides that SIPs in nonattainment areas ''shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or [EPA].'' This contingency measure requirement is inextricably tied to the reasonable further progress and attainment demonstration requirements. Contingency measures are implemented if reasonable further progress targets are not achieved, or if attainment is not realized by the attainment date. Where an area has already achieved attainment, it has no need to rely on contingency measures to come into attainment or to make further progress to attainment. As EPA stated in the General Preamble: ''The section 172(c)(9) requirements for contingency measures are directed at ensuring RFP and attainment by the applicable date.'' *See* 57 FR 13564. Thus these requirements no longer apply when an area has attained the standard.

It is important to note that should an area attain the 2006 $PM_{2.5}$ standard based on three years of data, its obligation to submit an attainment demonstration and related planning submissions is suspended only for so long as the area continues to attain the standard. If EPA subsequently determines, after notice-and-comment rulemaking, that the area has violated the NAAQS, the requirements for the State to submit a SIP to meet the previously suspended requirements would be reinstated. It is likewise important to note that the area remains designated nonattainment pending a further redesignation action.

V. EPA's Proposed Action and Request for Public Comment

EPA is proposing to determine that the Sacramento nonattainment area in California has attained the 2006 24-hour $PM_{2.5}$ standard based on the most recent three years of complete, quality-assured, and certified data for 2009–2011. Preliminary data available in AQS for 2012 show that the area continues to attain the standard.

EPA further proposes that, if its proposed determination of attainment is made final, the requirements for the Sacramento nonattainment area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 2006 $PM_{2.5}$ NAAQS would be suspended for so long as the area continues to attain the 2006 $PM_{2.5}$ NAAQS. EPA's proposal is consistent and in keeping with its long-held interpretation of CAA requirements, as well as with EPA's regulations for similar determinations for ozone (*see* 40 CFR 51.918) and the 1997 fine particulate matter standards (*see* 40 CFR 51.1004(c)). As described below, any such determination would not be equivalent to the redesignation of the area to attainment for the 2006 $PM_{2.5}$ NAAQS.

Any final action resulting from this proposal would not constitute a redesignation to attainment under CAA section 107(d)(3) because we have not yet approved a maintenance plan for the Sacramento nonattainment area as meeting the requirements of section 175A of the CAA or determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 would remain nonattainment for the area until such time as EPA determines that California has met the CAA requirements for redesignating the Sacramento nonattainment area to attainment.

If the Sacramento nonattainment area continues to monitor attainment of the 2006 $PM_{2.5}$ NAAQS, EPA proposes that the requirements for the area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning requirements related to attainment of the 2006 $PM_{2.5}$ NAAQS will remain suspended. If this proposed rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 2006 $PM_{2.5}$ NAAQS, the basis for the suspension of these attainment planning requirements for the Sacramento nonattainment area would no longer exist, and the area would thereafter have to address such requirements.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We

[14] This interpretation was adopted in the General Preamble, *see* 57 FR 13498, and has been upheld as applied to the Clean Data Policy, as well as to nonattainment SIP submissions. *See NRDC* v. *EPA,* 571 F.3d 1245 (D.C. Cir. 2009); *Sierra Club* v. *EPA,* 294 F.3d 155 (D.C. Cir. 2002).

will consider these comments before taking final action.

VI. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality and to suspend certain federal requirements, and thus, would 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 disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian Tribes and thus this proposed action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Nitrogen oxides, Sulfur oxides, Reporting and recordkeeping requirements.

Dated: October 15, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–26417 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60

[EPA–HQ–OAR–2004–0490; FRL–9743–9]

RIN 2060–AQ29

Extension of the Comment Period for the Proposed Standards of Performance for Stationary Gas Turbines; Standards of Performance for Stationary Combustion Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice. Announcement of extension of public comment period.

SUMMARY: The EPA is announcing that the period for providing public comments on the August 29, 2012, proposed rule titled, ''Standards of Performance for Stationary Gas Turbines; Standards of Performance for Stationary Combustion Turbines'' is being extended for 60 days.

DATES: The public comment period for these actions is being extended for 60 days to December 28, 2012, in order to provide the public additional time to submit comments and supporting information.

ADDRESSES: Written comments on the proposed rule may be submitted to the EPA electronically, by mail, by facsimile or through hand delivery/courier. Please refer to the proposal for the addresses and detailed instructions. Publicly available documents relevant to this action are available for public inspection either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–4003; Fax number: (919) 541–5450; Email address: *fellner.christian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comment Period

The proposed rule was published in the **Federal Register** on August 29, 2012, and a copy of the proposed rule is available in the docket (77 FR 52554). Due to requests we have received from the public to extend the public comment period for the August 29, 2012, proposed Standards of Performance for Stationary Gas Turbines; Standards of Performance for Stationary Combustion Turbines, the public comment period is being extended for 60 days. Therefore, the public comment period will end on December 28, 2012, rather than October 29, 2012.

How can I get copies of this document and other related information?

The EPA has established the official public docket No. EPA–HQ–OAR–2004–0490, available at *www.regulations.gov.*

List of Subjects in 40 CFR part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: October 17, 2012.

Gina McCarthy,

Assistant Administrator.

[FR Doc. 2012–26206 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R07–RCRA–2012–0719; FRL–9744–3]

Missouri: Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Missouri has applied to EPA for final authorization for the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Missouri.

DATES: Comments on this proposed action must be received in writing by November 26, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–RCRA–2012–0719 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: jackson-johnson.berla@epa.gov.*

3. *Mail:* Berla Jackson-Johnson, Environmental Protection Agency, Waste Enforcement & Materials Management Branch, 11201 Renner Blvd., Lenexa, Kansas 66219.

4. *Hand Delivery or Courier.* Deliver your comments to Berla Jackson-Johnson, Environmental Protection Agency, RCRA Enforcement and State Programs Branch, 11201 Renner Blvd., Lenexa, Kansas 66219. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Berla Jackson-Johnson at 913–551–7720, or by email at *jackson-johnson.berla@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is authorizing the changes by an immediate final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: October 11, 2012.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2012–26427 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 595

[Docket No. NHTSA–2012–0149]

RIN 2127–AL17

Make Inoperative Exemptions; Vehicle Modifications To Accommodate People With Disabilities, Ejection Mitigation

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes to amend NHTSA's regulation regarding, ''Make Inoperative Exemptions, Vehicle Modifications to Accommodate People With Disabilities,'' to include a new exemption relating to the Federal motor vehicle safety standard for ejection mitigation. The regulation facilitates the mobility of physically disabled drivers and passengers. This document responds to a petition from Bruno Independent Living Aids.

DATES: You should submit your comments early enough to ensure that the Docket receives them not later than December 26, 2012.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Gayle Dalrymple, NHTSA Office of Crash Avoidance Standards, NVS–123 (telephone 202–366–5559), or Deirdre Fujita, NHTSA Office of Chief Counsel, NCC–112 (telephone 202–366–2992) The mailing address for these officials is: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The National Traffic and Motor Vehicle Safety Act (49 U.S.C. Chapter 301) (''Safety Act'') and NHTSA's regulations require vehicle manufacturers to certify that their vehicles comply with all applicable Federal motor vehicle safety standards (FMVSSs) (*see* 49 U.S.C. 30112; 49 CFR part 567) at the time of manufacture. A vehicle manufacturer, distributor, dealer, or repair business, except as indicated below, may not knowingly make inoperative any part of a device or element of design installed in or on a motor vehicle in compliance with an applicable FMVSS (*see* 49 U.S.C. 30122). NHTSA has the authority to issue regulations that exempt regulated entities from the ''make inoperative'' provision (49 U.S.C. 30122(c)). The agency has used that authority to promulgate 49 CFR part 595 subpart C, ''Make Inoperative Exemptions, Vehicle Modifications to Accommodate People with Disabilities.''

49 CFR part 595 subpart C sets forth exemptions from the make inoperative provision to permit, under limited circumstances, vehicle modifications that take the vehicles out of compliance with certain FMVSSs when the vehicles are modified to be used by persons with disabilities after the first retail sale of the vehicle for purposes other than resale. The regulation was promulgated to facilitate the modification of motor vehicles so that persons with disabilities can drive or ride in them. The regulation involves information and disclosure requirements and limits the

extent of modifications that may be made.

Under the regulation, a motor vehicle repair business that modifies a vehicle to enable a person with a disability to operate or ride as a passenger in the motor vehicle and that avails itself of the exemption provided by 49 CFR part 595 subpart C must register itself with NHTSA. The modifier is exempted from the make inoperative provision of the Safety Act, but only to the extent that the modifications affect the vehicle's compliance with the FMVSSs specified in 49 CFR 595.7(c) and only to the extent specified in 595.7(c). Modifications that would take the vehicle out of compliance with any other FMVSS, or with an FMVSS listed in 595.7(c) but in a manner not specified in that paragraph, are not exempted by the regulation. The modifier must affix a permanent label to the vehicle identifying itself as the modifier and the vehicle as no longer complying with all FMVSS in effect at original manufacture, and must provide and retain a document listing the FMVSSs with which the vehicle no longer complies and indicating any reduction in the load carrying capacity of the vehicle of more than 100 kilograms (220 pounds).

FMVSS No. 226 ''Ejection Mitigation'' and Part 595

On January 19, 2011,[1] the agency published a final rule which established a new Federal Motor Vehicle Safety Standard No. 226, ''Ejection Mitigation,'' to reduce the partial and complete ejection of vehicle occupants through side windows in crashes, particularly rollover crashes. The standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating of 4,536 kg (10,000 pounds) or less, except walk-in vans, vehicles with modified roofs and convertibles. Also excluded from this standard are law enforcement vehicles, correctional institution vehicles, taxis and limousines, if they have a fixed security partition separating the first and second or second and third rows and if they are produced by more than one manufacturer or are altered (within the meaning of 49 CFR 567.7).

To assess compliance with FMVSS No. 226, the agency adopted a test in which an impactor is propelled from inside a test vehicle toward the windows. The ejection mitigation safety system is required to prevent the impactor from moving more than a specified distance beyond the plane of a window. In the test, the countermeasure must retain the linear travel of the impactor such that the impactor must not travel 100 millimeters (mm) beyond the location of the inside surface of the vehicle glazing. This displacement limit serves to control the size of any gaps forming between the countermeasure (e.g., the ejection mitigation side curtain air bag) and the window opening, thus reducing the potential for both partial and complete ejection of an occupant.

To ensure that the systems cover the entire opening of each window for the duration of a rollover, each side window will be impacted at up to four locations around its perimeter at two time intervals following NHTSA's manual deployment of the countermeasure. The agency anticipated that manufacturers will meet the standard by means of air bag technology, and possibly supplement the technology with advanced glazing. Vehicle manufacturers may newly install ejection mitigation air bag curtains, or will more likely modify existing side impact air bag curtains. The existing side impact air bag curtains will be made larger so that they cover more of the window opening, made more robust to remain inflated longer, and made to deploy in both side impacts and in rollovers using sensors. In addition, after deployment the curtains will be tethered near the base of the vehicle's pillars or otherwise designed to keep the impactor within the boundaries established by the performance test.

We estimated the new requirements will save 373 lives and prevent 476 serious injuries per year. The final rule adopted a phase-in of the new requirements, starting September 1, 2013.

FMVSS No. 226 is a new regulation and currently, 49 CFR Part 595 does not provide for an exemption for vehicles that are modified to accommodate people with disabilities.

Petition for Rulemaking

On May 17, 2011, Bruno Independent Living Aids (Bruno) submitted a petition for rulemaking to amend § 595.7 to include an exemption from the requirements of FMVSS No. 226. Bruno manufactures a product line it calls ''Turning Automotive Seating (TAS).'' A TAS seat replaces the seat installed by the original equipment manufacturer (OEM). Bruno states that the purpose of the TAS is—

> To provide safe access to private motor vehicles for mobility-impaired drivers or passengers, semi-ambulatory or transferring from a wheelchair. The Bruno TAS replaces the OEM seat in a sedan, minivan, van, pickup, or SUV. In its various configurations the Bruno TAS seat pivots from the forward-facing driving position to the side-facing entry position, extends outward and lowers to a suitable transfer height, providing the driver and/or passengers a convenient and safe entry into the vehicle. The transfer into the seat takes place safely, while outside the vehicle, and the occupant remains in the seat during the entry process, using the OEM seatbelts while traveling in the vehicle. Exiting the vehicle is accomplished by reversing the process. A further TAS option is a mobility base, which converts the automotive seat into a wheelchair, that eliminates a need for transferring from the seat altogether.

The petitioner believes that the TAS method of vehicle entry and exit is safer than using a platform lift to enter a vehicle or entering and exiting unassisted.

Bruno refers to a September 2010 notice of proposed rulemaking[2] (NPRM) that was published in response to a previous petition from Bruno to amend part 595.7(c)(15) to expand a reference in the exemption relating to FMVSS No. 214 ''Side impact protection.'' In June 2011,[3] the agency published a final rule in that rulemaking. The final rule provided an exemption from FMVSS No. 214's moving deformable barrier and pole tests as applied to a designated seating position that must be modified by changing the restraint system and/or seat at that position to accommodate a person with a disability.

Bruno states in its current petition that FMVSS No. 226 will enhance the side air bag technology of FMVSS No. 214 and that these enhanced side air bags present much of the same difficulties when accommodating the transportation needs of mobility impaired persons as those discussed in the rulemaking for FMVSS No. 214. Bruno states: ''Where the FMVSS 226 ejection mitigation system is an OEM seat component (e.g., seat back), it cannot be replaced within [sic] the TAS replacement seat due to the large variety of seat designs and ICU interfaces encountered. Also, the OEM seat can rarely, if ever, be structurally modified to fit the TAS mechanism.'' Thus, Bruno believes that an exemption from FMVSS No. 226 is warranted.

Response to Petition

NHTSA proposes to amend § 595.7(c) to add an exemption for FMVSS No. 226. However, we request comments on the necessity of the exemption.

In the June 2011 final rule amending 49 CFR 595.7(c) to update and expand a reference in an exemption relating to FMVSS No. 214, we stated:

[1] 76 FR 3212.

[2] 75 FR 59674.

[3] 76 FR 37025.

Removing an OEM seat that has a side air bag and replacing it with an aftermarket seat that does not would likely make inoperative the system installed in compliance with FMVSS No. 214. Making some other substantive modification of the OEM seat or restraint system to accommodate a person with a disability could also affect the measurement of the injury criteria specified in the standard. We believe that an exemption from the make inoperative provision with regard to the pole test in FMVSS No. 214 is needed to permit modification of the vehicle's seating system to accommodate a person with a disability. This is comparable to the position taken by NHTSA with regard to the make inoperative exemption for frontal air bags required by FMVSS No. 208. See 595.7(c)(14). Thus, we conclude today that the inclusion of S9 of FMVSS No. 214 in § 595.7(c)(15) is needed.

Bruno states that FMVSS No. 226 will enhance side curtain and torso air bags, and that ''these enhanced side curtain and torso air bags present much the same difficulties when accommodating the transportation needs of mobility impaired person as those discussed in the cited [FMVSS No. 214] NPRM.''

We do not quite agree with the petitioner's statements. FMVSS No. 226 is likely to affect side curtain air bags but will not affect torso air bags or seat components. Further, there are significant differences between the requirements in FMVSS Nos. 214 and 226. The MDB and pole tests specified in FMVSS No. 214 are full vehicle dynamic crash tests conducted with instrumented 5th percentile adult female and 50th percentile adult male dummies. To meet the performance requirement of FMVSS No. 214, side air bags providing head and torso protection are typically provided in the seat. The seating procedures for locating the dummies in the vehicle are specified in the standard. By removing the seat that contains an air bag to accommodate a person with a disability or installing a seat at a different location when compared to the original seat position, as Bruno does when installing the TAS seat, the vehicle may no longer be compliant with the FMVSS No. 214 requirements.

In contrast, the performance requirements specified in FMVSS No. 226 are based on a component test of the ejection mitigation countermeasure (which heretofore consists of curtain air bags that deploy from the headliner and not the seat). The ejection mitigation air curtain retains the impactor within the vehicle. Impact locations would be determined based on the shape of the window opening and are not dependent on the location of dummies and/or seat position. Therefore, it is possible, and maybe likely, that removing the original seat and replacing it with a seat to accommodate a person with a disability will have no negative impact on the performance of the curtain air bags in the context of FMVSS No. 226. If this were just a matter affecting ''those vehicles manufactured in compliance with FMVSS No. 226 where the ejection mitigation system is an OEM seat component'' as petitioner describes the order requested, we do not see an obvious need for an exemption.

However, the agency does recognize the possibility that the side impact sensing and electronic architecture system could be integrated with that of the ejection mitigation rollover protection system. Because of this integration, if a seat is modified or replaced to accommodate a person with a disability and the FMVSS No. 214 side impact air bag system is deactivated, tangentially the FMVSS No. 226 rollover ejection mitigation system could also be deactivated. For this reason, even though the ejection mitigation side curtain air bags' performance in a component test would not necessarily be compromised by installing a new seat, the electronics that would deploy the restraint in a rollover could be. Thus, for vehicles in which the seat is modified or replaced, it may not be practical to exempt them from the side impact requirements and not from ejection mitigation requirements.

We realize that FMVSS No. 226 requires side window coverage extending over the first three rows of vehicles, which among other things does help protect rear seat passengers from partial and full ejection. Vehicle manufacturing designs generally utilize one ejection mitigation curtain air bag per side to protect the front and the rear rows. If the side curtain air bag must be made inoperative to accommodate a disabled person in the driver's position or in a rear passenger position (e.g., to install a TAS seat in the driver's position or the rear seat position), ejection mitigation protection provided by the curtain would be made inoperative for the other occupants as well (even those not using a TAS seat). If a TAS seat were installed at the driver's seat, exempting only the front window opening from FMVSS No. 226 requirements would not be possible because the rear seat on the same side where the front seat was modified makes use of the same ejection mitigation curtain air bag.

We thus recognize that the petitioner's request presents a trade-off of substantial ejection mitigation protection in exchange for continued mobility for people with disabilities and some enhancement in easier and possibly safer vehicle entry and exit. Comments are requested on the proposed exemption. To achieve the maximum safety benefit of the regulations, it is our desire to provide the narrowest exemption possible to accommodate the needs of disabled persons, without unreasonably expanding its use to situations where the benefits of the exemption may be outweighed by the drawbacks of nonconformance with the safety standard.

We seek comment on whether the requested exemption is needed. Would deactivating the side impact protection system also deactivate the ejection mitigation system on vehicles? If the ejection mitigation window curtains are controlled by a sensor that is separate from the FMVSS No. 214 side impact sensor system, is the requested exemption needed? If the sensor systems are distinct, could the vehicle seating system be removed or modified without negatively affecting the performance of ejection mitigation curtains? Could the exemption be only for the ejection mitigation countermeasure (curtains) on the side of the vehicle affected by the modification, rather than for both sides?

Dates

We are providing a 60-day comment period. In view of the September 1, 2013 phase-in date for FMVSS No. 226, and because this rulemaking would remove a restriction on the modification of vehicles for persons with disabilities, if a final rule is issued NHTSA anticipates making the amendment effective in less than 180 days following publication of the rule.

Rulemaking Analyses and Notices

Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under E.O. 12866, E.O. 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). NHTSA has determined that the effects are so minor that a regulatory evaluation is not needed to support the subject rulemaking. This rulemaking would impose no costs on the vehicle modification industry. If anything, there

could be a cost savings due to the proposed exemption.

Modifying a vehicle in a way that makes inoperative the performance of ejection mitigation air bags would be detrimental for the occupants of the vehicle in a rollover. However, the number of vehicles potentially modified would be very few in number. This is essentially the trade-off that NHTSA is faced with when increasing mobility for persons with disabilities: when necessary vehicle modifications are made, some safety may unavoidably be lost to gain personal mobility. We have requested comments on how the agency may make the exemption as narrow as reasonably possible.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking 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 governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. 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.

NHTSA has considered the effects of this proposed rule under the Regulatory Flexibility Act. Most dealerships and repair businesses are considered small entities, and a substantial number of these businesses modify vehicles to accommodate individuals with disabilities. I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. While most dealers and repair businesses would be considered small entities, the proposed exemption would not impose any new requirements, but would instead provide additional flexibility. Therefore, the impacts on any small businesses affected by this rulemaking would not be substantial.

Executive Order 13132 (Federalism)

NHTSA has examined today's proposed rule pursuant to Executive Order 13132 (64 FR 43255; Aug. 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the proposed rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposal does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule would not impose any requirements on anyone. This proposal would lessen a burden on modifiers.

NHTSA rules can have preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision:

> When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.

49 U.S.C. 30103(b)(1). This provision is not relevant to this rulemaking as it does not involve the establishing, amending or revoking or a Federal motor vehicle safety standard.

Second, the Supreme Court has recognized the possibility, in some instances, of implied preemption of State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law. We are unaware of any State law or action that would prohibit the actions that this proposed rule would permit.

Civil Justice Reform

When promulgating a regulation, agencies are required under Executive Order 12988 to make every reasonable effort to ensure that the regulation, as appropriate: (1) Specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. No voluntary standards exist regarding this proposed exemption for modification of vehicles to accommodate persons with disabilities.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This proposed exemption would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any

significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This proposal does not contain new reporting requirements or requests for information beyond what is already required by 49 CFR part 595 subpart C. An entity taking advantage of the exemption would simply list FMVSS No. 226 in the document described in 49 CFR 595.7(b).

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 595

Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, we propose to amend 49 CFR part 595 to read as follows:

PART 595—MAKE INOPERATIVE EXEMPTIONS

1. The authority citation for Part 595 would be revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30122 and 30166; delegation of authority at 49 CFR 1.95.

2. Amend § 595.7 by adding paragraph (c)(17) to read as follows:

§ 595.7 Requirements for vehicle modifications to accommodate people with disabilities.

* * * * *

(c) * * *

(17) S4.2 and S5 of 49 CFR 571.226, on the side of the vehicle where a seat on that side of the vehicle must be changed to accommodate a person with a disability.

* * * * *

Issued on: October 23, 2012.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2012–26353 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BB58

Fisheries of the Caribbean, Gulf of Mexico and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 18B

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

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (South Atlantic Council) has submitted Amendment 18B to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic (Amendment 18B) for review, approval, and implementation by NMFS. Management actions in Amendment 18B would: establish a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery; establish initial eligibility requirements for a golden tilefish longline endorsement; establish an appeals process; allocate commercial golden tilefish quota among gear groups; establish a procedure for the transfer of golden tilefish endorsements; modify the golden tilefish trip limits; and establish a trip limit for commercial fishermen who do not receive a golden tilefish longline endorsement.

DATES: Written comments must be received no later than 5 p.m., Eastern Time, on December 26, 2012.

ADDRESSES: You may submit comments, identified by ''NOAA–NMFS–2012–0177'', by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov,* enter ''NOAA–NMFS–2012–0177'' in the search field and click on ''search''. After you have located the notice of availability, click on ''Submit a Comment'' link in that row. This will display the comment web form. You can enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10 MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this notice will not be accepted.

For further assistance with submitting a comment, see the ''Commenting'' section at *http://www.regulations.gov/#!faqs* or the Help section at *http://www.regulations.gov.*

Electronic copies of Amendment 18B may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.* Amendment 18B includes a draft environmental assessment, an Initial Regulatory Flexibility Act Analysis, a Regulatory Impact Review, and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Karla Gore, telephone: 727–824–5305; email: *Karla.Gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or

amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

Background

Recent amendments to the FMP have imposed more restrictive harvest limitations on snapper-grouper fishermen. In an effort to identify other species to harvest, more fishermen may target golden tilefish. Increased effort for golden tilefish would intensify the ''race to fish'' that already exists, which has resulted in a shortened fishing season for the last 6 years. The longline endorsement program would limit participation and reduce overcapacity in the commercial golden tilefish component of the snapper-grouper fishery; thereby easing derby conditions, which have occurred in recent years.

The South Atlantic Council has submitted Amendment 18B to NMFS for agency review under procedures of the Magnuson-Stevens Act. The South Atlantic Council approved the amendment during its June 2012 meeting.

Management Measures Contained in This Amendment

Longline Endorsement Program for Golden Tilefish

This amendment would establish a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery. The endorsement program is expected to limit participation to achieve optimum yield and reduce excess capacity in the fishery. Amendment 18B would establish eligibility criteria for the endorsement program based on golden tilefish landings using longline gear averaging at least 5,000 lb (2,268 kg), gutted weight, for an individual's best 3 fishing years within the period 2006 through 2011. This would reduce the number of potential participants who would qualify for an endorsement to 23.

Establish an Appeals Process

The amendment would establish an appeals process for fishermen who might have been incorrectly excluded from receiving a golden tilefish longline endorsement. The appeals process would set aside a period of 90 days to accept appeals to the golden tilefish endorsement program starting on the effective date of the final rule. The National Appeals Office would review, evaluate, and render recommendations on appeals to the Regional Administrator (RA). The RA would review, evaluate, and render a decision on each appeal. Hardship arguments would not be considered. The outcome of appeals would be based on NMFS' logbooks. If NMFS' logbooks are not available, state landings records would be used. Appellants would have to submit NMFS' logbooks or state landings records to support their appeal.

Allocate Commercial Golden Tilefish Quota Among Gear Groups

The amendment would allocate the golden tilefish commercial annual catch limit (ACL) between the longline and hook-and-line components. Seventy-five percent of the ACL, or 405,971 lb (184,145 kg), gutted weight, would be allocated to the longline component and 25 percent of the ACL, or 135,324 lb (61,382 kg), gutted weight, would be allocated to the hook-and-line component.

Allow for Transferability of Golden Tilefish Endorsements

The amendment would establish a procedure to transfer golden tilefish endorsements. A valid (not expired) golden tilefish endorsement or a renewable (expired but renewable) golden tilefish endorsement would be able to be transferred between any two individuals or entities that hold, or simultaneously obtain, a South Atlantic Unlimited Snapper-Grouper Permit.

Modify the Golden Tilefish Trip Limits

Currently, the trip limit is 4,000 lb (1,814 kg), gutted weight, for the commercial sector. If 75 percent of the ACL is reached before September 1 of the fishing year, the trip limit is reduced to 300 lb (136 kg), gutted weight. The step-down trip limit was originally intended to allow hook-and-line fishermen access to golden tilefish in the fall. In recent years, a derby fishery has developed for golden tilefish and the ACL has been met so rapidly that the 300-lb (136-kg), gutted weight, trip limit has not been triggered. Therefore, the 300-lb (136-kg), gutted weight, trip limit is not having the expected effect of extending the fishing season. Moreover, having separate allocations and ACLs for longline and hook-and-line gear makes the 300-lb (136-kg), gutted weight, trip limit unnecessary. The amendment would eliminate the step-down trip limit and the commercial trip limit of 4,000 lb (1,814 kg), gutted weight, would remain. Hook-and-line fishermen would still be able to harvest golden tilefish under the hook-and-line ACL.

Establish Trip Limits for Fishermen who do not Receive a Golden Tilefish Longline Endorsement

The amendment would establish a trip limit of 500 lb (227 kg), gutted weight, for the golden tilefish component of the snapper-grouper fishery for commercial fishermen who do not receive a longline endorsement. Vessels with golden tilefish longline endorsements would not be eligible to fish under this trip limit with other gear (*i.e.,* hook-and-line). Proposed Rule for Amendment 18B

NMFS proposes a rule that would implement management measures outlined in the Amendment 18B. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

Comments received by December 26, 2012, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: October 23, 2012.

James P. Burgess,

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

[FR Doc. 2012–26418 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 77, No. 208

Friday, October 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking

AGENCY: Administrative Conference of the United States.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given of a public meeting of the Committee on Rulemaking of the Assembly of the Administrative Conference of the United States.

DATES: Wednesday, November 14, 2012 from 1:00 p.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at 1120 20th Street NW., Suite 706 South, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Emily S. Bremer, Designated Federal Officer, Administrative Conference of the United States, 1120 20th Street NW., Suite 706 South, Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION: The Committee on Rulemaking will meet to consider an outline for a project examining policy and legal issues implicated by agency use of social media to support rulemaking. The outline, prepared by Professor Michael Herz (Cardozo School of Law), will identify the scope of the project and the research methodology. Further information about the Social Media project, meeting attendance (including information about remote access and special accommodations for persons with disabilities), and comment submission can be found in the ''About'' section of the Conference's Web site, at *http://www.acus.gov.* Click on ''Research,'' then on ''Committee Meetings.''

Comments may be submitted by email to *Comments@acus.gov,* with ''Committee on Rulemaking'' in the subject line, or by postal mail to the address provided above.

Dated: October 23, 2012.

Shawne C. McGibbon,

General Counsel.

[FR Doc. 2012–26379 Filed 10–25–12; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 22, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 26, 2012 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Agricultural Labor Survey.

OMB Control Number: 0535–0109.

Summary of Collection: The 1938 Agricultural Adjustment Act, as amended in 1948, requires wage rate data for computation of an index component. This component is used in calculation of parity prices. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. Agricultural labor statistics are an integral part of National Agricultural Statistics Service (NASS) primary function of collecting, processing, and disseminating current state, regional, and national agricultural statistics. Comprehensive and reliable agricultural labor data are also needed by the Department of Labor in the administration of the ''H–2A'' program (non-immigrants who enter the United States for temporary or seasonal agricultural labor) and for setting ''Adverse Effect Wage Rates.'' The Agricultural Labor Survey is the only timely and reliable source of information on the size of the farm worker population. NASS will collect information using a survey.

Need and Use of the Information: NASS will collect information on wage rate estimates and the year-to-year changes in these rates and how changes in wage rates help measure the changes in costs of production of major farm commodities. NASS will also collect data information to measure the availability of national farm workers. The information is used by farm worker organizations to help set wage rates and negotiate labor contracts as well as determine the need for additional workers and to help ensure federal assistance for farm worker assistance programs supported with government funding.

Description of Respondents: Farms.

Number of Respondents: 12,000.

Frequency of Responses: Reporting: Quarterly; Annually.

Total Burden Hours: 11,594.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–26426 Filed 10–25–12; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 22, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 26, 2012 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Lacey Act Declaration Requirements; Plants and Plant Products.

OMB Control Number: 0579–0349.

Summary of Collection: The Lacey Act, first enacted in 1900 and significantly amended in 1988, is the United States' oldest Wildlife Protection Statute. The Act combats trafficking in ''illegal'' wildlife, fish, or plants. The Food, Conservation and Energy Act of 2008, which took effect May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices).

Need and Use of the Information: Under the amended Lacey Act, importers are required to submit a declaration form (PPQ–505) for certain plants and plant products and PPQ–(505B) supplemental form to provide the declarer additional space to enter the required information, if needed. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from which the plant was harvested. If species varies or is unknown, importers will have to declare the name of each species that may have been used to produce the product. This information will be used to support investigations into illegal logging practices by the Justice Department and also acts as a deterrent to illegal logging practices worldwide.

Description of Respondents: Business or other for-profit.

Number of Respondents: 20,352.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 203,846.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–26428 Filed 10–25–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Peninsula Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Outreach for new RAC members.

SUMMARY: Interested citizens are invited to serve on the Olympic Peninsula Resource Advisory Committee (RAC). The RAC will be responsible for reviewing and recommending land management projects to be funded under the Secure Rural Schools and Community Self-Determination Act, should the act be reauthorized this year.

RAC members represent a wide range of interests. The committee consists of 15 members and each member is assigned to one of three categories. The Olympic Peninsula RAC has vacancies in all three categories.

- Category A represents organized labor, developed outdoor recreation, off-highway vehicle use, commercial recreation activities, energy development interests, the commercial timber industry, and Federal grazing or other land use permits.
- Category B represents nationally recognized environmental organizations, regionally or locally recognized environmental organizations, dispersed recreational activities, archaeological and historical interests.
- Category C represents state, county, or local elected offices, American Indian tribes, school officials or teachers, and the affected public-at-large.

A four-year term would begin upon appointment by the Secretary of Agriculture. Committee members serve without compensation, but may be reimbursed for travel expenses. Members must be Washington residents, preferably living in one of the Olympic Peninsula counties. Meetings are held at least once and up to four times per year within Thurston, Mason, Jefferson, Clallam, or Grays Harbor Counties.

Interested participants should submit the required AD 755 application, available on the forest's Web site at *http://www.fs.usda.gov/main/olympic/workingtogether/advisorycommittees.*

DATES: All applications must be received at the Olympic National Forest Supervisor's Office by November 30, 2012.

ADDRESSES: Please mail all AD 755 forms to: Olympic National Forest, 1835 Black Lake Blvd. SW., Olympia, WA 98512, Attention: Grace Haight.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Donna Nemeth at 360–956–2274 or Bill Shelmerdine at 360–956–2282.

Dated: October 15, 2012.

Reta Laford,

Forest Supervisor, Olympic National Forest.

[FR Doc. 2012–26351 Filed 10–25–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1864]

Expansion of Foreign-Trade Zone 158; Vicksburg/Jackson, MS

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Mississippi Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 158, submitted an application to the Board for authority to expand FTZ 158-Site 8 to include additional acreage in Senatobia, Mississippi, adjacent to the Memphis Customs and Border Protection port of entry (Docket 70–2010, filed December 14, 2010);

Whereas, notice inviting public comment has been given in the **Federal Register** (75 FR 79335–79336, 12/20/2010; correction 75 FR 82372, 12/30/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that the proposal would be in the public interest if subject to specific conditions;

Now, therefore, the Board hereby orders:

The application to expand FTZ 158 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone, and further subject to a sunset provision that would terminate authority on October 31, 2017, for Sites 1, 2, 3, 6, 7, 8 (including the addition to Site 8) and 9 where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this day 18th day of October 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2012–26404 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1862]

Grant of Authority for Subzone Status (Centrifugal and Submersible Pumps); Auburn, NY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * *the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the County of Orange, New York, grantee of Foreign-Trade Zone 37, has made application to the Board for authority to establish a special-purpose subzone at the centrifugal and submersible pump manufacturing and warehousing facilities of Xylem Water Systems U.S.A., LLC (formerly ITT Water Technology, Inc.), located in Auburn, New York (FTZ Docket 66–2011, filed 10–21–2011);

Whereas, notice inviting public comment has been given in the **Federal Register** (76 FR 66685, 10–27–2011) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing of centrifugal and submersible pumps and related controllers at the Xylem Water Systems U.S.A., LLC, facilities located in Auburn, New York (Subzone 37D), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this 18th day of Otober 2012.

Paul Piquado,

Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2012–26422 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–76–2012]

Foreign-Trade Zone 168—Dallas/Ft. Worth, TX; Notification of Proposed Production Activity, Richemont North America, Inc. dba Cartier (Eyewear Assembly/Kitting), Grand Prairie, TX

The Metroplex International Trade Development Corporation, grantee of FTZ 168, submitted a notification of proposed production activity on behalf of Richemont North America, Inc. dba Cartier (Cartier), located in Grand Prairie, Texas. The notification conforming to the requirements of the regulations of the Board (15 CFR 400.22) was received on October 17, 2012.

The Cartier facility is located within Site 4 of FTZ 168. The facility is used for the assembly/kitting of eyewear products. Production under FTZ procedures could exempt Cartier from customs duty payments on the foreign status components used in export production. On its domestic sales, Cartier would be able to choose the duty rates during customs entry procedures that apply to eyewear products (duty rate 2%–2.5%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

Components and materials sourced from abroad include eyewear frames and parts (duty rate ranges from free to 2.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 5, 2012.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: October 22, 2012.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2012–26424 Filed 10–25–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1863]

Reorganization/Expansion of Foreign-z Under Alternative Site Framework; Galveston, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Board of Trustees of the Galveston Wharves, grantee of Foreign-Trade Zone 36, submitted an application to the Board (FTZ Docket B–41–2012, filed 05/22/2012) for authority to reorganize under the ASF with a service area of Galveston County, Texas, within and adjacent to the Houston Customs and Border Protection port of entry, expand existing Site 2 to restore to zone status 76 acres, FTZ 36's Sites 1, 2 (as modified) and 3 would be categorized as magnet sites and Sites 4, 5 and 6 would be categorized as usage-driven sites;

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 31308, 05/25/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize and expand FTZ 36 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to ASF sunset provisions for magnet sites that would terminate authority for Site 2 if not activated by October 31, 2022, and for Site 3 if not activated by October 31, 2017, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 4, 5 and 6 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by October 31, 2015.

Signed at Washington, DC, this 18th day of October 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2012–26419 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–433–811, A–570–985]

Xanthan Gum From Austria and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations

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

DATES: October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan (Austria) or Brandon Farlander (People's Republic of China), AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4081 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determinations

On July 2, 2012, the Department of Commerce (the ''Department'') published a notice of initiation of antidumping duty investigations of xanthan gum from Austria and the People's Republic of China.[1] The notice of initiation stated that the Department, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.205(b)(1), would issue its preliminary determinations for these investigations, unless postponed, no later than 140 days after the date of the initiation. The preliminary determinations of these antidumping duty investigations are currently due no later than November 12, 2012.

On October 12, 2012, CP Kelco U.S. (''Petitioner''), pursuant to 19 CFR 351.205(b)(2) and (e), made a timely request for postponement of the preliminary determinations in these investigations.[2] Petitioner requested a 50-day postponement of the preliminary determinations in order to provide the Department with sufficient time to review the questionnaire responses and issue appropriate requests for clarification and additional information.

For the reasons stated above and because there are no compelling reasons to deny the request, the Department, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations to no later than 190 days after the date on which the Department initiated these investigations. Therefore, the new deadline for issuing these preliminary determinations is January 2, 2013.[3]

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 19, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–26409 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–866]

Folding Gift Boxes From the People's Republic of China: Preliminary Results of the Second Sunset Review of the Antidumping Duty Order

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

SUMMARY: On April 2, 2012, the Department of Commerce (''the Department'') initiated the second five-year (''sunset'') review of the antidumping duty order on certain folding gift boxes [1] from the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an

[1] *See Xanthan Gum From Austria and the People's Republic of China: Initiation of Antidumping Duty Investigations,* 77 FR 39210 (July 2, 2012).

[2] *See* Letter from Petitioner to the Secretary of Commerce, ''Xanthan Gum From Austria: Request to Fully Extend Preliminary Determination'' (October 12, 2012) and Letter from Petitioner to the Secretary of Commerce, ''Xanthan Gum From the People's Republic of China: Request to Fully Extend Preliminary Determination'' (October 12, 2012).

[3] Because the deadline, January 1, 2013, falls on a national holiday the deadline is postponed until the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended,* 70 FR 24533 (May 10, 2005).

[1] *See Notice of Antidumping Duty Order: Certain Folding Gift Boxes From the People's Republic of China,* 67 FR 864 (January 8, 2002) (''*Order*'').

adequate substantive response filed on behalf of the domestic interested parties, as well as a lack of response from respondent interested parties, the Department determined to conduct an expedited sunset review of the *Order,* pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). On July 23, 2012, the Department reconsidered its determination to conduct an expedited sunset review of the *Order* and determined instead to conduct a full sunset review of the *Order* on folding gift boxes from the PRC.[2] As a result of this sunset review, the Department preliminarily finds that revocation of the *Order* on folding gift boxes from the PRC would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Preliminary Results of Review'' section of this notice.

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

FOR FURTHER INFORMATION CONTACT: Demitri Kalogeropoulos; AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–2623.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2012, the Department initiated the second sunset review of the *Order* on folding gift boxes from the PRC, pursuant to section 751(c) of the Act.[3] On May 2, 2012, pursuant to 19 CFR 351.218(d)(3), The Folding Gift Boxes Fair Trade Coalition (''Domestic Parties''),[4] filed a timely and adequate substantive response within 30 days after the date of publication of the initiation notice.[5] The Department did not receive a substantive response from any respondent interested party. However, because the issues that the Department must analyze pursuant to the *Final Modification for Reviews*[6] are complex, we determined that this sunset review is extraordinarily complicated, pursuant to section 75l(c)(5)(C) of the Act. As a result, the Department is conducting a full sunset review of the *Order* on folding gift boxes from the PRC.

Scope of the Order

The products covered by the order are certain folding gift boxes. Folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. Folding gift boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. The scope of the order excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Folding gift boxes included in the scope are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The subject merchandise includes folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separate pieces. Folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The scope excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as ''not-for-resale'' gift boxes or ''give-away'' gift boxes and may be provided by department and specialty stores at no charge to their retail customers). The scope of the order also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

Imports of the subject merchandise are classified under Harmonized Tariff Schedules of the United States (''HTSUS'') subheadings 4819.20.0040 and 4819.50.4060. These subheadings also cover products that are outside the scope of the order. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is addressed in the accompanying Issues and Decision Memorandum.[7] The issues discussed in the accompanying Preliminary Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely to prevail if the *Order* is revoked. Parties may find a complete discussion of all issues raised in the review and the corresponding recommendations in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (''IA ACCESS''). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit room 7046 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the *Web at http://ia.ita.doc.gov/frn.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Sunset Review

Pursuant to section 751(c) of the Act, the Department preliminarily determines that revocation of the *Order* on folding gift boxes would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margin:

Exporters	Weighted-average margin (percent)
All producers and exporters[8].	Above *de minimis.*

Interested parties may submit case briefs no later than 50 days after the date of publication of the preliminary results of this full sunset review, in accordance with 19 CFR 351.309(c)(1)(i). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Rebuttal briefs,

[2] *See* Memorandum titled ''Sunset Review of the Antidumping Duty Order on Folding Gift Boxes from the People's Republic of China: Adequacy Redetermination Memorandum,'' (July 23, 2012).

[3] *See Initiation of Second (''Sunset'') Review,* 77 FR 19643 (April 2, 2012).

[4] The Folding Gift Boxes Fair Trade Coalition is comprised of Harvard Folding Gift Box Company, Inc. and Graphic Packaging International, Inc., both U.S. producers of folding gift boxes.

[5] *See* Substantive Response of the Domestic Parties (May 2, 2012).

[6] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (''*Final Modification for Reviews*'').

[7] *See* the ''Issues and Decision Memorandum for the Preliminary Results of the Second Sunset Review of the Antidumping Duty Order on Folding Gift Boxes From the People's Republic of China'', dated concurrently with this notice (''Preliminary Decision Memorandum'').

[8] Max Fortune Industrial Ltd. was excluded from the order. *See Order.*

which must be limited to issues raised in the case briefs, may be filed not later than the five days after the time limit for filing case briefs in accordance with 19 CFR 351.309(d).

A hearing, if requested, will be held two days after the date the rebuttal briefs are due. The Department will issue a notice of final results of this full sunset review, which will include the results of its analysis of issues raised in any such comments, no later than February 26, 2012.[9]

Notification Regarding Administrative Protective Order

This notice also serves as a preliminary reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or 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 which is subject to sanction.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 19, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–26410 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Folding Gift Boxes From the People's Republic of China: Extension of Time Limits for Preliminary and Final Results of Second Antidumping Duty Sunset Review,* 77 FR 45337 (July 31, 2012).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC298

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder Monitoring Committee, Scup Monitoring Committee, and Black Sea Bass Monitoring Committee will hold public meetings.

DATES: The meeting will be held on Friday, November 16, 2012, from 8:30 a.m. to 5 p.m. See **SUPPLEMENTARY INFORMATION** for meeting agenda.

ADDRESSES: The meeting will be held at the Doubletree by Hilton BWI Airport, 890 Elkridge Landing Road, Linthicum, MD 21090; telephone: (410) 859–8400.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Summer Flounder, Scup, and Black Sea Bass Monitoring Committee will meet to recommend recreational management measures for the summer flounder, scup, and black sea bass fisheries for the 2013 fishing year. Multi-year recreational measures may be considered for summer flounder and scup.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: October 23, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–26360 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC317

New England Fishery Management Council (NEFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a three-day meeting on November 13–15, 2012 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday and Thursday, November 13–15, starting at 9 a.m. on Tuesday, and at 8:30 a.m. on Wednesday and Thursday.

ADDRESSES: The meeting will be held at the Newport Marriott Hotel, 25 America's Cup Avenue, Newport, Rhode Island 02840; telephone: (401) 849–1000; fax: (401) 849–3422.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, November 13, 2012

Following introductions and any announcements, brief reports will be provided by the NEFMC Chairman and Executive Director, NOAA Fisheries Regional Administrator (Northeast Region), the Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel, representatives of the U.S. Coast Guard and the Atlantic States Marine Fisheries Commission, and staff from the Vessel Monitoring Systems Operations and Law Enforcement offices, as well as the Northeast Regional Ocean Council. These reports will be followed by a review of information concerning Council member recusals and lobbying, a discussion that will be led by NOAA General Counsel.

Following a lunch break, the Northeast Fisheries Science Center's (NEFSC) Science and Research Director will present an overview of the NEFSC draft Strategic Plan. A question and answer period is scheduled to

accompany the presentation. The Council's Herring Committee will report on its efforts to further develop the 2013–15 Atlantic herring fishery specifications. This action could include additional alternatives for acceptable biological catch (ABC) and the ABC control rule as well as a range of alternatives to modify accountability measures (AMs) in the Herring Fishery Management Plan (FMP). A public listening session, to include issues that are not otherwise listed on the agenda, will be held before the Council meeting adjourns for the day.

Wednesday, November 14, 2012

On Wednesday morning, the Council will discuss the issue of jointly managing the scup fishery with the Mid-Atlantic Fishery Management Council (MAFMC), possibly approve final action on the proposed specifications for the 2013–15 spiny dogfish fishery, and receive an update on the development of Amendment 6 to the Monkfish Fishery Management Plan. Consideration of Northeast Multispecies FMP issues, specifically possible approval of Framework Adjustment 48 measures, will be addressed during the remainder of the day. Decisions may include: specifications for the 2013–2015 fishing years; modifying sub-annual catch limits for the scallop fishery; adjusting sector monitoring measures, modifying accountability measures (AMs), including the possible adoption of AMs for other fisheries that catch Southern New England/Mid-Atlantic windowpane flounder, modifying recreational fishing measures; modifying measures to allow sectors to request access to areas within the groundfish closed areas; and likely changes to other less significant measures.

Alternatively, the Council may delay final action on this action until a later meeting, but could take final action on the allocations of groundfish stocks to the scallop fishery—the sub-annual catch limits for Southern New England/Mid-Atlantic and Georges Bank yellowtail flounder and Southern New England/Mid-Atlantic windowpane flounder. This is an option for the Council even if final action is not taken on Framework Adjustment 48 at its November meeting.

Thursday, November 15, 2012

The third and final day of the NEFMC meeting will begin with consideration of Framework Adjustment 24/49 to the Scallop and Groundfish Fishery Management Plans, respectively. The Council intent is to approve scallop fishery specifications for fishing years 2013 and potentially for 2014 and 2015 as well. Other measures in the action include: (1) Possible modification of the Georges Bank access area opening dates; (2) measures to address a yellowtail flounder sub-annual catch limit for the limited access general category fishery; (3) a change to the effective date of the accountability measures for the yellowtail flounder sub-annual catch limit; (4) measures to promote flexibility in the IFQ fishery by allowing leasing after the start of the fishing year and also once a vessel has started to fish its IFQ; and (5) expanding the observer set-aside program to include limited access general category open area trips. The Council will approve its management priorities for 2013 once the scallop items have been addressed. The meeting will be adjourned at that time unless any other outstanding business is identified.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 23, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–26362 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC316

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) Staff will convene a meeting of the Visioning and Strategic Planning (VaSP) Working Group.

DATES: The meeting will be held on Monday, November 12, 2012, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton BWI Airport: 7032 Elm Road, Baltimore, MD 21240; telephone: (410) 859–3300.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: This meeting of the VaSP Working Group is the fourth in a series of strategic planning meetings convened to elicit meaningful discussion on complex fisheries issues, trends, opportunities and challenges for the MAFMC as they relate to the Council's responsibilities over the next ten years. Participants in this VaSP Working Group are working to build consensus on the strategic paths to take during the next 10-years. The Strategic Plan will contain a series of strategic goals to guide the MAFMC's activities in the coming years.

In this meeting, the VaSP Working Group will finalize the Economic Impact, Governance and Regulatory Process goals, objectives and strategies initially drafted on October 15 and 16, 2012. They will complete an abridged analysis of strengths, weaknesses, opportunities and threats on science and data and ecosystem based fishery management.

No formal actions will be taken by the VaSP Working Group at this meeting. Any documents produced by the Working Group will be reviewed by the full-Council following a period of public comment.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: October 23, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–26374 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities and deletes products previously furnished by such agencies.

DATES: *Comments Must be Received on or Before:* 11/26/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the service listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

The following service is proposed for addition to the Procurement List for production by the nonprofit agency listed:

Service

Service Type/Location: Custodial Service, U.S. Government Accountability Office (GAO) Field Office, 2196 D Street—Area B, Bldg. 39, Wright-Patterson AFB, Dayton, OH.
NPA: Goodwill Easter Seals Miami Valley, Dayton, OH.
Contracting Activity: U.S. Government Accountability Office (GAO), Except Comptroller General, GAO Acquisition Management, Washington, DC.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

Presentation Sheets, ''SmartChart''

NSN: 7520–01–483–8980—Refill Roll.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: General Services Administration, New York, NY.

Computer Accessories

NSN: 7045–01–483–7840—Visionguard XL Anti-Glare Screen.
NPA: Wiscraft, Inc., Milwaukee, WI.
Contracting Activity: General Services Administration, New York, NY.

Hydramax Hydration System

NSN: 8465–01–524–2765—ALPHA Reflector, Orange Reflective Tape.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: General Services Administration, Fort Worth, TX.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–26358 Filed 10–25–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

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

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 6/15/2012 (77 FR 35942–35944) and 8/24/2012 (77 FR 51522–51523), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSN: 9905–00–NIB–0343—Tape, Barricade, Yellow, ''CAUTION'', Economy Grade, 3''W x 1000'L
NSN: 9905–00–NIB–0344—Tape, Barricade, Yellow, ''CAUTION'', Premium Grade, 3''W x 1000'L
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 9905–00–NIB–0342—Tape, Barricade, Red, ''DANGER'', Economy Grade, 3''W x 1000'L
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: West Texas Lighthouse for the Blind, San Angelo, TX
Contracting Activity: General Services Administration, Fort Worth, TX

Eyewear

NSN: 6650–00–NIB–0009—Single Vision, Plastic, Clear
NSN: 6650–00–NIB–0010—Flat Top 28, Bifocal, Plastic, Clear
NSN: 6650–00–NIB–0011—Flat Top 35, Bifocal, Plastic, Clear
NSN: 6650–00–NIB–0012—Round 25, Round 28 Bifocal, Plastic, Clear
NSN: 6650–00–NIB–0013—Flat Top 7x28, Trifocal, Plastic, Clear
NSN: 6650–00–NIB–0014—Flat Top 8x35, Trifocal, Plastic, Clear
NSN: 6650–00–NIB–0015—Progressives, Plastic, Clear
NSN: 6650–00–NIB–0016—SV, Aspheric, Lenticular, Plastic, Clear
NSN: 6650–00–NIB–0017—FT/Round, Aspheric, Lenticular, Plastic, Clear
NSN: 6650–00–NIB–0018—Bifocal,

Executive, Plastic, Clear
NSN: 6650–00–NIB–0019—Single Vision, Glass, Clear
NSN: 6650–00–NIB–0020—Flat Top 28, Bifocal, Glass, Clear
NSN: 6650–00–NIB–0021—Flat Top 35, Bifocal, Glass, Clear
NSN: 6650–00–NIB–0022—Flat Top 7x28, Trifocal, Glass, Clear
NSN: 6650–00–NIB–0023—Flat Top 8x35, Trifocal, Glass, Clear
NSN: 6650–00–NIB–0024—Progressives, Glass, Clear
NSN: 6650–00–NIB–0025—Executive, Bifocal, Glass, Clear
NSN: 6650–00–NIB–0026—Single Vision, Polycarbonate, Clear
NSN: 6650–00–NIB–0027—Flat Top 28, Bifocal, Polycarbonate, Clear
NSN: 6650–00–NIB–0028—Flat Top 35, Bifocal, Polycarbonate, Clear
NSN: 6650–00–NIB–0029—Flat Top 7x28, Trifocal, Polycarbonate, Clear
NSN: 6650–00–NIB–0030—Flat Top 8x35, Trifocal, Polycarbonate, Clear
NSN: 6650–00–NIB–0031—Progressives (VIP, Adaptar, Freedom, Image), Polycarbonate
NSN: 6650–00–NIB–0032—Single Vision, Plastic, Clear
NSN: 6650–00–NIB–0033—Flat Top 28, Bifocal, Plastic, Clear
NSN: 6650–00–NIB–0034—Flat Top 35, Bifocal, Plastic, Clear
NSN: 6650–00–NIB–0035—Round 25 and 28, Bifocal, Plastic, Clear
NSN: 6650–00–NIB–0036—Flat Top 7x28, Trifocal, Plastic, Clear
NSN: 6650–00–NIB–0037—Flat Top 8x35, Trifocal, Plastic, Clear
NSN: 6650–00–NIB–0038—Progressives, Plastic, Clear
NSN: 6650–00–NIB–0039—SV, Aspheric, Lenticular, Plastic, Clear
NSN: 6650–00–NIB–0040—FT or round aspheric lenticular, Plastic, Clear
NSN: 6650–00–NIB–0041—Bifocal, Executive, Plastic, Clear
NSN: 6650–00–NIB–0042—Single Vision, Glass, Clear
NSN: 6650–00–NIB–0043—Flat Top 28, Bifocal, Glass, Clear
NSN: 6650–00–NIB–0044—Flat Top 35, Bifocal, Glass, Clear
NSN: 6650–00–NIB–0045—Flat Top 7x28, Trifocal, Glass, Clear
NSN: 6650–00–NIB–0046—Flat Top 8x35, Trifocal, Glass, Clear
NSN: 6650–00–NIB–0047—Progressives (VIP, Adaptar, Freedom), Glass, Clear
NSN: 6650–00–NIB–0048—Bifocal, Executive, Glass, Clear
NSN: 6650–00–NIB–0049—Single Vision, Polycarbonate, Clear
NSN: 6650–00–NIB–0050—Flat Top 28, Polycarbonate, Clear
NSN: 6650–00–NIB–0051—Flat Top 35, Bifocal, Polycarbonate, Clear
NSN: 6650–00–NIB–0052—Flat Top 7x28, Trifocal, Polycarbonate, Clear
NSN: 6650–00–NIB–0053—Flat Top 8x35, Trifocal, Polycarbonate, Clear
NSN: 6650–00–NIB–0054—Lenses, Progressives (VIP, Adaptar, Freedom, Image), Polycarbonate
NSN: 6650–00–NIB–0055—Transition, Plastic, CR–39
NSN: 6650–00–NIB–0056—Photochromatic/Transition (Polycarbonate Material)
NSN: 6650–00–NIB–0057—Photogrey (glass only)
NSN: 6650–00–NIB–0058—High Index transition (CR 39)
NSN: 6650–00–NIB–0059—Anti-reflective Coating (CR 39 and polycarbonate)
NSN: 6650–00–NIB–0060—Ultraviolet Coating (CR 39)
NSN: 6650–00–NIB–0061—Polarized Lenses (CR 39)
NSN: 6650–00–NIB–0062—Slab-off (polycarbonate, CR 39: trifocal and bifocal)
NSN: 6650–00–NIB–0063—High Index (CR–39)
NSN: 6650–00–NIB–0064—Prism (up to 6 diopters no charge) > 6 diopters/diopter
NSN: 6650–00–NIB–0065—Diopter + or − 9.0 and above
NSN: 6650–00–NIB–0066—Lenses, oversize eye, greater than 58, excluding progressive.
NSN: 6650–00–NIB–0067—Hyper 3 drop SV, multifocal (CR 39)
NSN: 6650–00–NIB–0068—Add powers over 4.0
NSN: 6650–00–NIB–0069—Plastic or Metal
Coverage: C-List for 100% of the requirements of Veterans Integrated Service Networks 1, 3, 4, 5, 6, 7, and 8 as aggregated by the Service Area Office East, Veterans Health Administration, Department of Veterans Affairs, Pittsburgh PA.
NPA: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: Department of Veterans Affairs Service Area Organization East, Pittsburgh, PA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–26359 Filed 10–25–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

[Docket #:121018560–2560–01; OMB Control #:0625–0271 (Expiration: 10/31/2015)]

RIN 0625–XC003

Interim Procedures for Considering Requests From the Public for Textile and Apparel Safeguard Actions on Imports From Colombia

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Notice of Interim Procedures and Request for Comments.

SUMMARY: This notice sets forth the interim procedures the Committee for the Implementation of Textile Agreements (''CITA'') will follow in implementing certain provisions of the United States—Colombia Trade Promotion Agreement (''U.S.-Colombia TPA''). Title III, Subtitle B, Section 321 through Section 328 of the United States-Colombia Trade Promotion Agreement Implementation Act (''Implementation Act'') [Pub. L. 112–42] authorizes the President to consider requests from the public for textile and apparel safeguard actions. The President has delegated to CITA the authority to determine whether imports of a Colombian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. CITA hereby gives notice to interested entities of the procedure CITA will follow in considering such requests and solicits public written comments on these interim procedures.

DATES: As of October 26, 2012, CITA intends to use these interim procedures to process requests from the public. CITA solicits public written comments on the interim procedures. Comments on the procedures must be received no later than November 26, 2012 of this notice, either in hard copy or electronically.

ADDRESSES: If submitting comments in hard copy, an original, signed document must be submitted to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. If submitting comments electronically, the electronic copy must be submitted to *OTEXA_COLOMBIA@trade.gov.* All submitted comments will be posted for public review on the Web site dedicated to U.S.-Colombia TPA textile and apparel safeguard proceedings. The Web site is located on the U.S. Department of Commerce's Office of Textile and Apparel Web site (*www.otexa.ita.doc.gov*), under ''Colombia TPA''/''Safeguards'' Additional instructions regarding the submission of comments may be found at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Laurie Mease, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Legal Authority: Section 321 through Section 328 of the Implementation Act and Proclamation No. 8818, 77 FR 29519 (May 18, 2012).

Background

Title III, Subtitle B, Section 321 through Section 328 of the Implementation Act implements the textile and apparel safeguard provisions,

provided for in Article 3.1 of the U.S.-Colombia TPA. The safeguard mechanism applies when, as a result of the elimination of duties under the U.S.-Colombia TPA, a Colombian textile or apparel article benefiting from preferential tariff treatment is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Section 322 of the Implementation Act permits the United States to increase duties on the imported article from Colombia to a level that does not exceed the lesser of the prevailing U.S. most-favored-nation (MFN) duty rate for the article or the U.S. MFN duty rate in effect on the day before the U.S.-Colombia TPA enters into force.

The import tariff relief is effective beginning on the date that CITA determines that a ''Colombian textile or apparel article,'' as defined in Section 301(2) of the Implementation Act, is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions that imports of the article cause serious damage, or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article. Consistent with Section 323(a) of the Implementation Act, the maximum period of import tariff relief, as set forth in Section 3 of this notice, shall be two years. However, consistent with Section 323(b) of the Implementation Act, CITA may extend the period of import relief for a period of not more than 1 year if CITA determines that the continuation is necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition, and that there is evidence that the domestic industry is making a positive adjustment to import competition. Import tariff relief may not be applied to the same article at the same time under these procedures if relief previously has been granted with respect to that article under: (1) These procedures; (2) Subtitle A to Title III of the Implementation Act; or (3) Chapter 1 of Title II of the Trade Act of 1974 (19 U.S.C. 2251 *et seq.*).

Authority to provide import tariff relief with respect to a Colombian textile or apparel article will expire five years after the date on which the U.S.-Colombia TPA enters into force.

Under Article 3.1.7 of the U.S.-Colombia TPA, if the United States provides relief to a domestic industry under the textile and apparel safeguard, it must provide Colombia ''mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the textile safeguard measure.'' Such concessions shall be limited to textile and apparel products, unless the United States and Colombia agree otherwise. Under Article 3.1.8 of the U.S.-Colombia TPA, if the United States and Colombia are unable to agree on trade liberalizing compensation, Colombia may increase customs duties equivalently on U.S. products. The obligation to provide compensation terminates upon termination of the safeguard relief. Section 327 of the Implementation Act extends the President's authority to provide compensation under Section 123 of the Trade Act of 1974 (19 U.S.C. 2133), as amended, to measures taken pursuant to the U.S.-Colombia TPA's textile and apparel safeguard provisions.

Procedures for Requesting Textile and Apparel Safeguard Actions

1. *Requirements for Requests.* Pursuant to Section 321(a) of the Implementation Act and Paragraph (9) of Presidential Proclamation 8818 of May 18, 2012, an interested party may file a request for a textile and apparel safeguard action with CITA. CITA will review requests from an interested party sent to the Chairman, Committee for the Implementation of Textile Agreements, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Ten copies of any such request must be provided. As provided in Section 328 of the Implementation Act, CITA will protect from disclosure any business confidential information that is marked ''business confidential'' to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, that is identical to the business confidential version with the exception that any business confidential information is summarized or, if necessary, deleted. At the conclusion of the request, an interested party must attest that ''all information contained in the request is complete and accurate and no false claims, statements, or representations have been made.'' Consistent with Section 321(a), the CITA will review a request initially to determine whether to commence consideration of the request on its merits. Within 15 working days of receipt of a request, the CITA will consider the criteria set forth below to determine whether the request provides the information necessary for CITA to consider the request. If the request does not provide the necessary information, CITA will promptly notify the requester of the reasons for this determination and the request will not be considered. However, CITA will reevaluate any request that is resubmitted with additional information.

Consistent with longstanding CITA practice in considering textile safeguard actions, CITA will consider an interested party to be an entity (which may be a trade association, firm, certified or recognized union, or group of workers) that is representative of either: (A) A domestic producer or producers of an article that is like, or directly competitive with, the subject Colombian textile or apparel article; or (B) a domestic producer or producers of a component used in the production of an article that is like, or directly competitive with, the subject Colombian textile or apparel article.

A request will only be considered if the request includes the specific information set forth below in support of a claim that a textile or apparel article from Colombia is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article.

A. *Product description.* Name and description of the imported article concerned, including the category or categories or part thereof of the U.S. Textile and Apparel Category System (see ''Textile Correlation'' at *http://otexa.ita.doc.gov/corr.htm*) under which such article is classified, the Harmonized Tariff Schedule of the United States subheading(s) under which such article is classified, and the name and description of the like or directly competitive domestic article concerned.

B. *Import data.* The following data, in quantity by category unit (see ''Textile Correlation''), on total imports of the subject article into the United States and imports from Colombia into the United States:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January–March 2011, April–June

2011 and January–March 2010, April–June 2010).

The data should demonstrate that imports of a Colombian-origin textile or apparel article that is like or directly competitive with, the article produced by the domestic industry concerned are increasing in absolute terms or relative to the domestic market for that article.

C. *Production data.* The following data, in quantity by category unit (see ''Textile Correlation''), on U.S. domestic production of the like or directly competitive article of U.S. origin indicating the nature and extent of the serious damage or actual threat thereof:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January–March 2011, April–June 2011 and January–March 2010, April–June 2010).

The requester must provide a complete listing of all sources from which the data were obtained and an affirmation that to the best of the requester's knowledge, the data represent substantially all of the domestic production of the like or directly competitive article(s) of U.S. origin. In such cases, data should be reported in the first unit of quantity in the Harmonized Tariff Schedule of the United States (*http://www.usitc.gov/tata/hts*) for the Colombian textile and/or apparel articles and the like or directly competitive articles of U.S. origin.

D. *Market Share Data.* The following data, in quantity by category unit (see ''Textile Correlation''), on imports from Colombia as a percentage of the domestic market (defined as the sum of domestic production of the like or directly competitive article and total imports of the subject article); on total imports as a percentage of the domestic market; and on domestic production of like or directly competitive articles as a percentage of the domestic market:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January–March 2011, April–June 2011 and January–March 2010, April–June 2010).

E. *Additional data showing serious damage or actual threat thereof.* All data available to the requester showing changes in productivity, utilization of capacity, inventories, exports, wages, employment, domestic prices, profits and losses, and investment, and any other information, relating to the existence of serious damage, or actual threat thereof, caused by imports from Colombia to the industry producing the like or directly competitive article that is the subject of the request. To the extent that such information is not available, the requester should provide best estimates and the basis therefore:

* Annual data for the most recent three full calendar years for which such data are available;

* Quarterly data for the most recent year for which such data are partially available, and quarterly data for the same quarter(s) of the previous year (e.g., January–March 2011, April–June 2011 and January–March 2010, April–June 2010).

2. *Consideration of Requests.* Consistent with Section 321(b) of the Implementation Act, if CITA determines that the request provides the information necessary for it to be considered, CITA will publish in the **Federal Register** a notice seeking public comments regarding the request, which will include a summary of the request and the date by which comments must be received. The **Federal Register** notice and the request, with the exception of information marked ''business confidential,'' will be posted by the Department of Commerce's Office of Textiles and Apparel (''OTEXA'') on the Internet (*http://otexa.ita.doc.gov*). The comment period shall be 30 calendar days. To the extent business confidential information is provided, a non-confidential version must also be provided, that is identical to the business confidential version with the exception that any business confidential information is summarized or, if necessary, deleted. At the conclusion of its submission of such public comments, an interested party must attest that ''all information contained in the comments is complete and accurate and no false claims, statements, or representations have been made.'' Comments received, with the exception of information marked ''business confidential,'' will also be on the Internet (*http://otexa.ita.doc.gov*) for review by the public. If a comment alleges that there is no serious damage or actual threat thereof, or that the subject imports are not the cause of the serious damage or actual threat thereof, CITA will closely review any supporting information and documentation, such as information about domestic production or prices of like or directly competitive articles. In the case of requests submitted by entities that are not the actual producers of a like or directly competitive article, particular consideration will be given to comments representing the views of actual producers in the United States of a like or directly competitive article.

Any interested party may submit information to rebut, clarify, or correct public comments submitted by any other interested party at any time prior to the deadline provided in this section for submission of such public comments. If public comments are submitted less than 10 days before, or on, the applicable deadline for submission of such public comments, an interested party may submit information to rebut, clarify, or correct the public comments no later than 10 days after the applicable deadline for submission of public comments.

With respect to any request considered by CITA, CITA will make a determination within 60 calendar days of the close of the comment period. If CITA is unable to make a determination within 60 calendar days, it will publish a notice in the **Federal Register** and include the date by which it will make a determination. If CITA makes a negative determination, it will publish this determination and the reasons therefore in the **Federal Register**.

3. *Determination and Provision of Relief.* CITA shall determine whether, as a result of the reduction or elimination of a duty under the U.S.-Colombia TPA, Colombia's textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. In making this determination, CITA: (1) Shall examine the effect of increased imports on the domestic industry as reflected in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and losses, and investment, none of which is necessarily decisive; and (2) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof. CITA, without delay, will provide written notice of its decision to the Government of Colombia and will consult with said party upon its request.

If a determination under this section is affirmative, CITA may provide import tariff relief to a U.S. industry to the extent necessary to remedy or prevent the serious damage or actual threat thereof and to facilitate adjustment by

the domestic industry to import competition. Such relief may consist of an increase in duties to the lower of: (1) The column 1 general rate of duty imposed under the HTS on like articles at the time the relief is granted; or (2) the column 1 general rate of duty imposed under the HTS on like articles on the day before the Agreement enters into force.

The import tariff relief is effective beginning on the date that CITA's affirmative determination is published in the **Federal Register**. The maximum period of import tariff relief shall be three years. However, if the initial period for import relief is less than three years, CITA may extend the period of import relief to the maximum three-year period if CITA determines that the continuation is necessary to remedy or prevent serious damage or actual threat thereof by the domestic industry to import competition, and that the domestic industry is, in fact, making a positive adjustment to import competition. Import tariff relief may not be imposed for an aggregate period greater than three years. Import tariff relief may not be applied to the same article at the same time under these procedures if relief previously has been granted with respect to that article under: (1) These procedures; (2) Subtitle A to Title III of the Implementation Act; or (3) Chapter 1 of Title II of the Trade Act of 1974 (19 U.S.C. 2251 *et seq.*).

Authority to provide import tariff relief for a textile or apparel article from Colombia that is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article, will expire five years after the date on which the U.S.-Colombia TPA enters into force.

4. *Self Initiation.* CITA may, on its own initiative, consider whether imports of a textile or apparel article from Colombia are being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In such considerations, CITA will follow procedures consistent with those set forth in Section 2 of this notice, including the publishing of a notice in the **Federal Register** seeking public comment regarding the action it is considering.

5. *Record Keeping and Business Confidential Information.* The Office of Textiles and Apparel (OTEXA) will maintain an official record for each request on behalf of CITA. The official record will include all factual information, written argument, or other material developed by, presented to, or obtained by OTEXA regarding the request, as well as other material provided to the Department of Commerce by other government agencies for inclusion in the official record. The official record will include CITA memoranda pertaining to the request, memoranda of CITA meetings, meetings between OTEXA staff and the public, determinations, and notices published in the **Federal Register**. The official record will contain material which is public, business confidential, privileged, and classified, but will not include pre-decisional inter-agency or intra-agency communications. If CITA decides it is appropriate to consider materials submitted in an untimely manner, such materials will be maintained in the official record. Otherwise, such material will be returned to the submitter and will not be maintained as part of the official record. OTEXA will make the official record public except for business confidential information, privileged information, classified information, and other information the disclosure of which is prohibited by U.S. law.

The public record will be made available for public inspection at the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 5:00 p.m. on business days.

Information designated by the submitter as business confidential will normally be considered to be business confidential unless it is publicly available. CITA will protect from disclosure any business confidential information that is marked ''business confidential'' to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided, that is identical to the business confidential version with the exception that any business confidential information is summarized or, if necessary, deleted. CITA will make available to the public non-confidential versions of the request that is being considered, non-confidential versions of any public comments received with respect to a request, and, in the event consultations are requested, the statement of the reasons and justifications for the determination subsequent to the delivery of the statement to Colombia.

Request for Comment on the Interim Procedures

Comments must be received no later than November 26, 2012, and in the following format:

(1) Comments must be in English.

(2) Comments must be submitted electronically or in hard copy, with original signatures.

(3) Comments submitted electronically, via email, must be either in PDF or Word format, and sent to the following email address: *OTEXA_COLOMBIA@trade.gov.* The email version of the comments must include an original electronic signature. Further, the comments must have a bolded heading stating ''Public Version'', and no business confidential information may be included. The email version of the comments will be posted for public review on the COLOMBIA FTA Safeguard Web site.

(4) Comments submitted in hard copy must include original signatures and must be mailed to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. All comments submitted in hard copy will be made available for public inspection at the Office of Textiles and Apparel, Room 30003, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 5:00 p.m. on business days. In addition, comments submitted in hard copy will also be posted for public review on the COLOMBIA FTA Safeguard Web site.

(5) Any business confidential information upon which an interested person wishes to rely may only be included in a hard copy version of the comments. Brackets must be placed around all business confidential information. Comments containing business confidential information must have a bolded heading stating ''Confidential Version.'' Attachments considered business confidential information must have a heading stating ''Business Confidential Information''. The Committee will protect from disclosure any business confidential information that is marked ''Business Confidential Information'' to the full extent permitted by law.

Kim Glas,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2012–26415 Filed 10–25–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0124]

Privacy Act of 1974; System of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to delete a Systems of Records.

SUMMARY: The Defense Finance and Accounting Service is deleting a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on November 26, 2012 unless comments are received which result in a contrary determination. Comments will be accepted on or before November 26, 2012.

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

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Outlaw, (317) 510–4591.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: October 23, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:

T7315.

SYSTEM NAME:

U.S. Savings Bond System (December 28, 2007, 72 FR 73783)

REASON:

The U.S. Savings Bond System was retired and its functionality migrated to the DFAS MyPay System; the records are covered under system of records notice T7336, MyPay System (June 16, 2006, 71 FR 34898).

[FR Doc. 2012–26397 Filed 10–25–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0127]

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on November 26, 2012 unless comments are received which result in a contrary determination. Comments will be accepted on or before November 26, 2012.

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Ms. Jody Sinkler, DLA FOIA/Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060–6221, or by phone at (703) 767–5045.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 11, 2012, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 23, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S800.20

SYSTEM NAME:

Military Clothing Database (April 12, 2011, 76 FR 20339).

CHANGES:

* * * * *

PURPOSE(S):

Add a new sentence to end of entry ''The participating military services use these records to track clothing issued in their respective personnel management and finance systems.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Replace last paragraph with ''The DoD Blanket Routine Uses may also apply to this system of records.''

* * * * *

[FR Doc. 2012–26398 Filed 10–25–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0131]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to Add a New System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to add a new system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on November 26, 2012 unless comments are received which result in a contrary determination. Comments will be accepted on or before November 26, 2012.

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

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

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

FOR FURTHER INFORMATION CONTACT: Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed system report, as required by 5 U.S.C. 552a of the Privacy Act of 1974, as amended, was submitted on October 16, 2012, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 23, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DPA 01

SYSTEM NAME:

Public Affairs Management Information System (PAMIS).

SYSTEM LOCATION:

Office of the Assistant Secretary of Defense for Public Affairs, (OASD PA) Information Resource Management (IRM), 1400 Defense Pentagon, Room 2E989, Washington, DC 20301–1400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense (DoD) civilian and military personnel (active duty and reserve) assigned to the OASD (PA) and the Defense Media Activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, DoD Identification (DoD ID) number, home address, office address, grade, home phone number, office email, personal mobile phone number, DoD issued blackberry phone number, positions authorized a DoD blackberry, fax, defense switch number (DSN), emergency contact information, manpower number, supervisor, duty start date, duty station location, branch of service, service computation date, Entry on Duty (EOD), organization code, office code, job series, position title, manpower number, parking permit, and parking subsidy.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; DoD Directive 5122.05, Assistant Secretary of Defense for Public Affairs (ASD (PA)) and DoD Directive 3020.26, Department of Defense Continuity Programs.

PURPOSE(S):

Information is collected and maintained to ensure OASD (PA) has the capability to access personnel information to support internal mission requirements associated with personnel actions, authorized billets, manpower levels, parking permits, recall rosters, emergency contact information, blackberry authorizations and the Public Affairs COOP.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses that appear at the beginning of the OSD compilation of system of record notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVEABILITY:

Records are retrieved using the DOD ID number, name, or manpower number.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, and administrative procedures. Access to personal information is role based and restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of usernames, passwords, system permissions and Common Access Cards (CAC). All individuals to be granted access to this system of records are to have received Information Assurance and Privacy Act training.

RETENTION AND DISPOSAL:

Destroy 3 years old after an individual departs.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Assistant Secretary of Defense for Public Affairs, 1400 Defense Pentagon, Room 2E996, Washington, DC 20301–1400.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the PAMIS System Manager, Office of the Assistant Secretary of Defense for Public Affairs, 1400 Defense Pentagon, Room 2E996, Washington, DC 20301–1400.

The request must include full name, DoD ID number, and a complete mailing address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

The request must be signed and include the name and number of this system of records notice, the individual's full name, DoD ID number, and a complete mailing address.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is collected from individuals and the following organization records: HRSC–CIV–MIL–PSD report, staffing summary report, cluster report (Office of Director of Administration and Management, Organization and Manpower), executive titles report, OSD Military staffing report, Notification of Incoming Personnel (NIP).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–26406 Filed 10–25–12; 8:45 a.m.]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2012–ICCD–0044]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request: Federal Family Education Loan (FFEL) Program Income Based Repayment (IBR) Plan Request and Alternative Documentation of Income

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 2012.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2012–ICCD–0044 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Ian Foss, Federal Student Aid, (202) 377–3681.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Family Education Loan (FFEL) Program Income Based Repayment (IBR) Plan Request and Alternative Documentation of Income.

OMB Control Number: 1845–0102.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 3,159,132.

Total Estimated Number of Annual Burden Hours: 1,042,514.

Abstract: This form serves as the means by which borrowers in the William D. Ford Federal Direct Loan (Direct Loan) and Federal Family Education Loan (FFEL) Programs may request an Income-Based or Income-Contingent Repayment (IBR/ICR) Plans if they meet certain statutory and regulatory criteria. The U.S. Department of Education uses the information collected on these forms to determine whether a borrower meets the eligibility requirements for the specific IBR/ICR Plan that the borrower has requested. The burden hours associated with this collection is increasing for one reason; namely, that the collection is being combined with all Income-Based or Income-Contingent materials contained in the soon-to-be revised 1845–0014 (Direct Loan Repayment Plan Selection Form) and soon-to-be discontinued 1845–0016 (Direct Loan IBR/ICR Alternative Documentation of Income Form), so that the forms associated with this collection may be used in both the FFEL and Direct Loan Program. However, because the form has been greatly streamlined, there is a significant burden reduction associated with this clearance that is masked by the increased respondent population.

Dated: October 22, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–26336 Filed 10–25–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2012–ICCD–0043]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request: Foreign School Supplemental Application System

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 26, 2012.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2012–ICCD–0043 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance

Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Beth Grebeldinger, Federal Student Aid, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Foreign School Supplemental Application System.

OMB Control Number: Pending.

Type of Review: New collection, request for a new OMB Control Number.

Respondents/Affected Public: Business or other for-profits; Not-for-profit institutions.

Total Estimated Number of Annual Responses: 70.

Total Estimated Number of Annual Burden Hours: 245.

Abstract: The Foreign School Supplemental Application System (FS SAS) is designed as a bridge system that will allow foreign school administrators to enter information directly into the system in a secure fashion and upload required documents. The FS SAS works in conjunction with the e-App system. When a foreign school is applying for initial participation, or is submitting an application for recertification or reinstatement, if the school is seeking approval of its medical, nursing or veterinary school, upon completion of the e-App, the school will be able to link to the FS SAS on the Information for Financial Aid Professionals (IFAP) Web page. Only foreign schools who are registered with Federal Student Aid and who have been issued the required two factor authentication tokens can access the FS SAS. The FS SAS allows foreign schools to upload required documentation in a portable document format (pdf) to accompany the applications and reducing the time it takes to complete the application to submit to the Foreign Schools Team for review.

Dated: October 22, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–26337 Filed 10–25–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Federal Student Aid; Student Assistance General Provisions—Student Right-to-Know

SUMMARY: Section 485 of the Higher Education Act of 1965, as amended (HEA) authorizes the administration of the Student Right-to-Know (SRK) regulations. The implementing regulations are in 34 CFR 668.41 and 668.45 and relate to the retention, placement and post-graduate study by students at an institution.

DATES: Interested persons are invited to submit comments on or before November 26, 2012.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2012–ICCD–0042 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202–4537.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Student Right-to-Know.

OMB Control Number: 1845–0004.

Type of Review: Extension without change of a currently approved collection.

Total Estimated Number of Annual Responses: 25,068.

Total Estimated Number of Annual Burden Hours: 16,244.

Abstract: Pursuant to the HEA and in accordance with 34 CFR 668.41 and 668.45, eligible participating postsecondary institutions are required to provide this SRK information to all enrolled students, prospective students prior to their enrolling or entering into a financial obligation with the school as well as to the institution's employees. This information pertains to the completion, graduation and post-graduate study rates for students at a given institution. This information must be made through publications, mailings and electronic media. The SRK information is made available so that students and prospective students at that institution to complete a course of study as well as education opportunities upon graduation.

Dated: October 19, 2012.

Darrin A. King,

Director, Information Collection Clearance Division Privacy, Information and Records Management Services Office of Management.

[FR Doc. 2012–26392 Filed 10–25–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. 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, November 14, 2012 8:00 a.m.–5:00 p.m.

The opportunity for public participation will be from 2:45 p.m. to 3:00 p.m.

These times are subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Hilton Garden Inn, 700 Lindsay Boulevard, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, Idaho 83415. Phone (208) 526–6518; Fax (208) 526–8789 or email: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://inlcab.energy.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.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Recent Public Involvement
- Idaho Cleanup Project (ICP) Progress to Date
- Idaho Settlement Agreement 101
- Idaho Treatment Group Recovery Plan/Projected Performance Status
- Subsurface Disposal Area: Accelerated Retrieval Project (ARP) 7, 8, and Shutdown
- ARP 5 Sludge Process from Advanced Mixed Waste Treatment Project
- Current Idaho National Laboratory/ ICP Public Involvement/ Communications

Public Participation: The EM SSAB, Idaho National Laboratory, 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 Robert L. Pence at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request 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 Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://inlcab.energy.gov/pages/meetings.php.*

Issued at Washington, DC on October 23, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–26370 Filed 10–25–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice and request for comments

SUMMARY: The Department of Energy invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

The proposed collection would involve information that will enable DOE to measure the impact and progress of DOE's National Clean Fleets Partnership (Partnership). The Partnership is an initiative through which DOE provides large private-sector fleets with technical assistance and expertise to incorporate alternative fuels and fuel saving measures into their operations successfully. The initiative builds on the established success of DOE's Clean Cities program. The Partnership was developed with input from fleet managers, industry representatives, Clean Cities program staff, and Clean Cities coordinators.

DATES: Comments regarding this proposed information collection must be received on or before December 26, 2012. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Mr. Mark Smith, Office of Energy Efficiency and Renewable Energy (EE–2G), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121, or by fax at 202–586–1600, or by email at *Mark.Smith@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mr. Mark Smith, Office of Energy Efficiency and Renewable Energy (EE–2G), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121, (202) 287–5151, *Mark.Smith@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.* New; (2) *Information Collection Request Title:* National Clean Fleets Partnership Progress; (3) *Type of Request:* New; (4) *Purpose:* DOE's Clean Cities initiative has developed a voluntary National Clean Fleets Partnership effort that establishes strategic alliances with large private fleets to help them explore and adopt alternative fuels and fuel economy measures to reduce petroleum use. The Partnership does not endeavor to engage a large number of fleets, but rather works with select fleets committed to

leading the way in reducing petroleum consumption. Under a voluntary agreement, Clean Cities commits to provide each fleet with a designated account manager for assistance and support; work with fleets to develop individual partner plans to reduce petroleum use; provide technical assistance, data, access to subject matter experts, analysis, and unbiased evaluation; provide education and outreach materials to recognize a fleet's involvement with the Partnership and its accomplishments; supply mechanisms for fleet information exchange and networking; and identify and document progress related to petroleum savings, cost savings, and reductions in emissions. A participating fleet commits to appointing a primary contact; developing a petroleum use reduction plan; acting to work toward the goals set forth in the plan; tracking progress and provide baseline information and annual data on petroleum use; and participating as an active Clean Cities stakeholder.

The principal objective of collecting the information DOE seeks to gather through the Partnership effort is to allow DOE to develop an objective assessment and estimate of each fleet's impact and progress. Information requested would be used to establish a baseline of activities, vehicle inventories, and fuel use for each fleet, which will then be used for future comparisons and analyses of instituted programs and policies. A designated representative for each participating fleet will provide the requested information. The intended respondent is expected to be aware of relevant aspects of the company's fleet management, such that the gathering of information is not expected to be very resource consuming.

The Partnership effort will rely on data provided in a template spreadsheet and responses to questions the respondent chooses to answer during a phone or in-person interview. The questions and data collection would address the following topic areas: (a) Vehicle data, in terms of the number of different vehicles in the fleet sorted by fuel type and class or category of vehicle; (b) Fuel data, in terms of the quantity of fuel used in given vehicle categories or classes, based on the type of fuel; (c) Fuel use by type by zip code or other appropriate geographic zone; (d) type of infrastructure used; (e) Current and historical fleet strategies to reduce petroleum (driver training, idle reduction, alternative fuels, right sizing); and (e) Fleet operations (how vehicles are fueled). The responses and data will be compiled for the purpose of assessing progress against the fleet's baseline information, and impact in terms of increasing deployment of alternative fueled vehicles and alternative fuels themselves.

The interview that would be part of the voluntary Partnership initiative would be completed on an annual basis, at the convenience of the participating fleet, there being no date by which the questions must be completed. Calculation of progress and impacts will be undertaken on an ongoing basis, once the interview is completed.

The data and subsequent analyses will allow DOE to compare historical records dynamically, and provide the opportunity for each fleet to determine annual progress. The Partnership is targeted at large, private-sector fleets that own or have contractual control over at least 50 percent of their vehicles and have vehicles operating in multiple States. DOE expects approximately 30 fleets to participate in the Partnership the first year and, as a result, DOE expects a total respondent population of approximately 20 respondents the first year. Providing initial baseline information for each participating fleet, which occurs only once, is expected to take 60 minutes. Follow-up questions and clarifications for the purpose of ensuring accurate analyses are expected to take up to 90 minutes. (5) *Annual Estimated Number of Respondents:* 20; (6) *Annual Estimated Number of Total Responses:* 20; (7) *Annual Estimated Number of Burden Hours:* 50; and (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* There is no cost associated with reporting and recordkeeping.

Statutory Authority: 42 U.S.C. Sec. 13252(a)–(b); 42 U.S.C. 13255; 42 U.S.C. 7256.

Issued in Washington, DC on October 19, 2012.

Patrick B. Davis,

Program Manager, Vehicle Technologies Program, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–26366 Filed 10–25–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–166–000.
Applicants: Centra Pipelines Minnesota Inc.
Description: Revised Index of Shippers to be effective 12/1/2012.
Filed Date: 10/18/12.
Accession Number: 20121018–5059.
Comments Due: 5 p.m. ET 10/30/12.

Docket Numbers: RP13–167–000.
Applicants: TC Offshore LLC.
Description: NAESB 2.0 to be effective 12/1/2012.
Filed Date: 10/18/12.
Accession Number: 20121018–5108.
Comments Due: 5 p.m. ET 10/30/12.

Docket Numbers: RP13–168–000.
Applicants: Central New York Oil And Gas, L.L.C.
Description: MARC I Interim FTSA Filing to be effective 12/31/9998.
Filed Date: 10/19/12.
Accession Number: 20121019–5104.
Comments Due: 5 p.m. ET 10/31/12.

Docket Numbers: RP13–169–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Atmos Energy Non-Conforming TSA to be effective 10/25/2012.
Filed Date: 10/19/12.
Accession Number: 20121019–5143.
Comments Due: 5 p.m. ET 10/31/12.

Docket Numbers: RP13–170–000.
Applicants: Columbia Gulf Transmission Company.
Description: Columbia Gulf Transmission Company submits tariff filing per 154.601: Negotiated Rate Svc Agreements—NJR, Vitol, Tenaska, LD to be effective 11/1/2012.
Filed Date: 10/19/12.
Accession Number: 20121019–5167.
Comments Due: 5 p.m. ET 10/31/12.

Docket Numbers: RP13–171–000.
Applicants: Texas Eastern Transmission, LP.
Description: PCB TETLP DEC 2012 FILING to be effective 12/1/2012.
Filed Date: 10/22/12.
Accession Number: 20121022–5000.
Comments Due: 5 p.m. ET 11/5/12.

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.

Filings in Existing Proceedings

Docket Numbers: RP13–156–001.
Applicants: Central New York Oil And Gas, L.L.C.
Description: MARC I FTSA Compliance Filing—Correction2 to be effective 12/31/9998.

Filed Date: 10/19/12.
Accession Number: 20121019–5035.
Comments Due: 5 p.m. ET 10/31/12.

Docket Numbers: RP13–60–001.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: NAESB V 2.0 Minor Corrections to 10/1/12. Compliance Order No. 587–V Filing to be effective 12/1/2012.
Filed Date: 10/19/12.
Accession Number: 20121019–5043.
Comments Due: 5 p.m. ET 10/31/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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 October 22, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–26356 Filed 10–25–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Notice of Addition of Property for the Kansas City Plant Facilities

AGENCY: National Nuclear Security Administration (NNSA), U.S. Department of Energy (DOE).

ACTION: Notice of Addition of Property for the Kansas City Plant Facilities.

SUMMARY: Notice is hereby given that the U.S. Department of Energy, pursuant to Section 229 of the Atomic Energy Act of 1954, as amended, prohibits the unauthorized entry and the unauthorized introduction of weapons or dangerous materials into or upon the facilities of the Kansas City Plant of the United States Department of Energy, National Nuclear Security Administration, National Security Campus. The facilities are described in this notice.

DATES: This action is effective on October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Laurel I. Hautala, Director, Security & Information Technology Systems, NNSA Kansas City Plant, 14520 Botts Road, Kansas City, MO 64147, Telephone: (816) 997–5109, Facsimile: (816) 997–3718.

Albert N. Guarino, Site Counsel, NNSA Kansas City Plant, 14520 Botts Road, Kansas City, MO 64147, Telephone: (816) 997–3344, Facsimile: (816) 997–3718.

SUPPLEMENTARY INFORMATION: Public notice of the section 229 boundary of the Kansas City Plant was initially made in the **Federal Register** notice published October 19, 1965 (30 FR 13290). The boundary was revised on November 25, 1983 (48 FR 56822–568224).

Pursuant to section 229 of the Atomic Energy Act, as implemented by DOE regulations at 10 CFR part 860 (28 FR 8400, Aug. 26, 1963), the following additions to the existing boundary are made: add to the existing 229 Boundary the tracts which comprise the U.S. Department of Energy, National Nuclear Security Administration, Kansas City Plant National Security Campus. The additions are described in further detail in the paragraphs that follow. DOE regulations prohibit the unauthorized entry (10 CFR 860.3) and the unauthorized introduction of weapons or dangerous materials (10 CFR 860.4) into or upon the facilities.

Property Description: All of Lot 1 and all of Tract ''A'', NNSA National Security Campus, a subdivision of land recorded July 14, 2010 as Document No. 2010E0067288, in Book I134, at Page 17 and located in the South half of the Section 27, Township 47 North, Range 33 West of the 5th Principal Meridian in Kansas City, Jackson County, Missouri, except all that part of said Lot 1 and Tract ''A'' that is located within a 30.00 feet strip of land labeled on said plat as a 30.00 feet Public Use Access Easement that runs in a general East-West direction across the Southerly part of said Lot 1 and Tract ''A'' that splits this description into two tracts of land, herein referred to as the North Tract and South Tract. The North Tract contains part of said Lot 1 and part of said Tract ''A'' and the South Tract contains only part of said Lot 1, said tracts are bounded and described as follows:

North Tract

Beginning at the Northeast corner of said Lot 1, thence South 03°40′55″ West, along the East line of said Lot 1, 1,465.84 feet to the North line of said 30.00 feet Public Use Access Easement; thence Westerly along said Northerly line the following twelve (12) courses, thence North 86°18′56″ West, 105.22 feet; thence South 78°41′04″ West, 61.93 feet; thence North 86°18′56″ West, 337.93 feet; thence South 48°41′04″ West, 107.66 feet; thence Southwesterly along a curve to the right having an initial tangent bearing of South 04°10′04″ East with a radius of 336.50 feet, a central angle of 82°24′19″ and an arc distance of 483.97 feet; thence South 78°14′16″ West, 1,135.12 feet; thence North 86°45′44″ West, 336.14 feet; thence South 78°14′16″ West, 305.90 feet; thence South 54°14′16″ West, 191.35 feet; thence South 72°14′16″ West, 202.79 feet; thence North 86°33′10″ West, 261.62 feet; thence North 84°02′34″ West, 239.59 feet to a point on the Westerly line of said Tract ''A'' and on the Easterly line of the Kansas City Southern Railway as now established; thence North 10°11′18″ East, departing the North line of said 30′ Public Use Access Easement, along last said Westerly and Easterly lines, 1,603.05 feet; thence North 16°01′41″ East along last said lines, 460.28 feet; thence North 29°26′28″ East along last said lines, 267.40 feet to the Northeast corner of said Tract ''A'' and the Northwest corner of said Lot 1; thence North 71°31′55″ East along the Northerly line of said Lot 1, 532.50 feet; thence South 86°43′47″ East, along said Northerly line, 2,496.07 feet to the Point of Beginning, containing 6,582,366 square feet, or 151.11 acres, more or less.

South Tract

Commencing at the Northeast corner of said Lot 1, thence South 03°40′55″ West, along the East line of said Lot 1, 1,465.84 feet to the North line of said 30.00 feet Public Use Access Easement; thence continuing South 03°40′55″ West, along the East line of said Lot 1, 30.00 feet to the South line of said 30.00 feet Public Use Access Easement and the Point of Beginning of said South Tract; thence Westerly along said Northerly line the following ten (10) courses: thence North 86°18′56″ West, 101.27 feet; thence South 78°41′04″ West, 61.93 feet; thence North 86°18′56″ West, 329.45 feet; thence South 48°41′04″ West, 80.72 feet; thence Southwesterly along a curve to the right having an initial tangent bearing of South 01°47′57″ East with a radius of 366.50 feet, a central angle of 80°02′13″ and an arc distance of 511.97 feet; thence South 78°14′16″ West, 1,139.07 feet; thence North 86°45′44″ West, 336.14 feet; thence South 78°14′16″ West, 295.57 feet; thence South 54°14′16″ West, 189.72 feet; thence South 72°14′16″ West, 214.26 feet to the Southerly line of said Lot 1 and the Northerly line of Missouri Highway No. 150 (East 147th Street) as now established; thence Westerly, departing

the North line of said 30′ Public Use Access Easement, along last said Northerly and Southerly lines the following seventeen (17) courses; thence South 86°41′46″ East, 159.65 feet; thence North 75°33′51″ East, 69.01 feet; thence South 86°24′47″ East, 196.85 feet; thence North 82°16′37″ East, 50.17 feet; thence South 86°24′47″ East, 164.05 feet; thence South 71°29′56″ East, 118.14 feet; thence South 86°31′24″ East, 541.32 feet; thence North 83°35′46″ East, 83.02 feet; thence South 86°28′41″ East, 32.21 feet; thence North 03°33′00″ East, 54.13 feet; thence South 86°24′55″ East, 131.23 feet; thence South 03°33′00″ West, 54.13 feet; thence South 86°24′55″ East, 83.09 feet; thence South 76°36′51″ East, 83.36 feet; thence South 86°27′00″ East, 164.04 feet; thence North 76°03′07″ East, 172.00 feet; thence South 86°25′19″ East, 69.39 feet; thence Westerly and Northerly, departing last said Northerly right of way line, and continuing along the Southerly line and Easterly lines of said Lot 1, the following nine (9) courses; thence North 76°41′05″ East, 322.04 feet; thence North 73°14′16″ East, 359.91 feet; thence North 66°04′44″ East, 42.58 feet; thence North 27°15′23″ East, 31.74 feet; thence North 14°25′20″ East, 106.40 feet; thence North 02°12′07″ West, 179.82 feet; thence North 14°11′40″ East, 140.04 feet; thence South 86°19′05″ East, 58.56 feet; thence North 03°40′55″ East, 296.80 feet to the Point of Beginning, containing 1,188,544 square feet or 27.29 acres, more or less.

This revised boundary is in addition to the property description contained in the **Federal Register** notice published October 19, 1965 (30 FR 13290) and revised on November 25, 1983 (48 FR 56822–56824). Addition of the National Security Campus property does not terminate the prior Kansas City Plant section 229 listing.

Issued in Kansas City, MO, this 18th day of October, 2012.

Laurel I. Hautala,

Director, Security & Information Technology Systems, NNSA Kansas City Plant.

[FR Doc. 2012–26372 Filed 10–25–12; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0621; FRL–9746–5]

Access by EPA Contractors To Confidential Business Information Related to the Greenhouse Gas Reporting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Atmospheric Programs plans to authorize the contractors named in this notice to access information submitted to EPA under the Greenhouse Gas Reporting Program that may be designated or claimed as confidential business information. Contractor access to this information will begin no sooner than November 6, 2012.

DATES: EPA will accept comments on this Notice through November 5, 2012.

ADDRESSES: You may submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0621 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: MRR_Corrections@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2011–0621 in the subject line of the message.
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 2822T, Attention Docket ID No. EPA–HQ–OAR–2011–0621, 1200 Pennsylvania Avenue NW., Washington, DC 20004.
- *Hand/Courier Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2011–0621. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Comment Information

A. Does this notice apply to me?

This notice is directed to the general public. However, this action may be of particular interest to parties subject to the requirements of 40 CFR part 98. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

1. Electronically

EPA has included a public docket for this **Federal Register** notice under Docket EPA–HQ–OAR–2011–0621.

All documents in the docket are identified in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, such as confidential business information (CBI) or other information for which disclosure is restricted by statute. Certain materials, such as copyrighted material, will only be available in hard copy at the EPA Docket Center.

2. EPA Docket Center

Materials listed under Docket EPA–HQ–OAR–2011–0621 will be available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and

the telephone number for the Air Docket is (202) 566–1742.

B. What should I consider as I prepare my comments to EPA?

1. Submitting CBI in Response to This Notice

Clearly mark the part or all of the comments that you claim to be CBI submitted in response to this notice. 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 marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

Identify this Notice by docket number and other identifying information (e.g., subject heading, **Federal Register** date and page number).

Follow directions. EPA may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.

Describe any assumptions and provide any technical information and/or data that you used.

Provide specific examples to illustrate your concerns and suggest alternatives. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

Make sure to submit your comments by the deadline identified in the preceding section titled **DATES**. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Description of Programs and Potential Disclosure of Information Claimed as Confidential Business Information to Contractors

EPA's Office of Atmospheric Programs (OAP) has responsibility for protecting public health and the environment by addressing climate change, protecting the ozone layer, and improving regional air quality. In response to the FY2008 Consolidated Appropriations Act (H.R. 2764; Pub. L. 110–161), EPA created the Greenhouse Gas Reporting Program (GHGRP), 40 CFR part 98 (Part 98), which requires reporting of greenhouse gas (GHG) data and other relevant information from large sources and suppliers in the United States. The purpose of Part 98 is to collect accurate and timely GHG data to inform future policy decisions. Some of the information submitted is designated or claimed to be CBI. Such information is handled in accordance with EPA's regulations in 40 CFR part 2, subpart B and in accordance with EPA procedures that are consistent with those regulations.

EPA has, at times, determined that it is necessary to disclose to EPA contractors and subcontractors certain information that has been designated or claimed as CBI. When this occurs, the corresponding contract must address the appropriate use and handling of the information by the contractor. In every instance, the contractor or subcontractor must require its personnel who need access to information designated or claimed as CBI to sign written agreements before they are granted access to the data. These agreements must provide that the contractor and its personnel ''shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office.'' Before providing CBI access to any contractor, EPA must also determine in writing that CBI disclosure to the contractor or subcontractor is necessary to carry out the work required by the contract or subcontract (40 CFR 2.301(h)(2)(i)).

In addition to contractors' requirement to sign written agreements prior to being granted access to CBI and EPA's requirement to determine in writing that CBI disclosure to contractors is necessary, EPA is also required to give notice in accordance with 40 CFR 2.301(h)(2)(iii). EPA has determined that the contractors, subcontractors, and grantees (collectively referred to as ''contractors'') listed below may require access to data submitted to EPA under the GHGRP that is designated or claimed as CBI. EPA is providing notice and an opportunity to comment and is issuing this **Federal Register** notice to inform all reporters of information under Part 98 that EPA may grant access to material that may be designated or claimed as CBI to the contractors identified below, as needed. EPA may also grant access to materials that may be designated or claimed as CBI to any of the listed subcontractors, as needed, but does not necessarily anticipate granting access to all of the listed subcontractors. EPA will only grant CBI access to any listed contractors or subcontractors after fulfilling the requirements described above.

Under Contract Number EP–W–11–052, Task Order 0004, SAIC, 1710 SAIC Drive, McLean, VA 22102, and its subcontractor, Environ, 773 San Marin Drive, Suite 2115, Novato, CA 94998, provide technical support that requires access to information designated or claimed as CBI related to the GHGRP, including, but not limited to, 40 CFR part 98, subpart RR. Access to data, including information designated or claimed as CBI, will commence no sooner than November 6, 2012 and will continue until the termination of this contract. If the contract is extended, this access will continue for the remainder of the contract and any further extensions without further notice.

Under Contract Number EP–W–11–054, Task Order 0004, RTI International, P.O. Box 12194, Research Triangle Park, NC 27709–2194, and its subcontractors, Advanced Resources International, Inc. 4501 Fairfax Drive, Suite 910, Arlington, Virginia 22203, provide technical support that requires access to information designated or claimed as CBI related to the GHGRP, including, but not limited to, 40 CFR part 98, subpart UU. Access to data, including information designated or claimed as CBI, will commence no sooner than November 6, 2012 and will continue until the termination of this contract. If the contract is extended, this access will continue for the remainder of the contract and any further extensions without further notice.

Under Contract Number EP–BPA–12–H–0022, Task Order EP–B12H–00157, ICF International, 1725 Eye Street NW., Suite 1000, Washington DC 20006, and its subcontractor, Steve Scalucci, 220 Sauk Drive, Batavia, IL 60510, provide technical support that requires access to information designated or claimed as CBI related to the GHGRP, including, but not limited to, 40 CFR part 98, subparts F, I, L, O, T, DD, OO, QQ, and SS. Access to data, including information designated or claimed as CBI, will commence no sooner than November 6, 2012 and will continue until the termination of this contract. If the contract is extended, this access will continue for the remainder of the contract and any further extensions without further notice.

Under Contract Number EP–BPA–12–H–0022, Task Order EP–B13H–00006, ICF International, 1725 I Street, NW.,

Suite 1000, Washington, DC 20006, and its subcontractors, J. Marks & Associates, L.L.C., 312 NE. Brockton Drive, Lee Summit, MO 64064; Transcarbon International, 1 Penn Plaza, Suite 6110, New York, NY 10119; Steve Scalucci, 220 Sauk Drive, Batavia, IL 60510; and Donald Wuebbles, 105 S. Gregory Street, Urbana, IL 61801, provide technical support that requires access to information designated or claimed as CBI related to the GHGRP, including, but not limited to, 40 CFR part 98, subparts F, I, DD, OO, QQ, and SS. Access to data, including information designated or claimed as CBI, will commence no sooner than November 6, 2012 and will continue until the termination of this contract. If the contract is extended, this access will continue for the remainder of the contract and any further extensions without further notice.

Parties who wish further information about this **Federal Register** notice or about OAP's disclosure of information designated or claimed as CBI to contactors may contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: October 22, 2012.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2012–26425 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9744–2]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Wyoming's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA's approval is effective October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Evi Huffer, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1697, *huffer.evi@epa.gov,* or Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On September 10, 2010, the Wyoming Department of Environmental Quality (WY DEQ) submitted an amended application titled ''Environmental Information Technology Enterprise System'' for revisions/modifications of its EPA-authorized programs under title 40 CFR. EPA reviewed WY DEQ's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Wyoming's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 51–52, 60–61, 63, 70, 72, 75, 258, 260, 262–265, 268, 270, and 280 is being published in the **Federal Register**:

Part 52—Approval and Promulgation of Implementation Plans;

Part 61—National Emissions Standards for Hazardous Air Pollutants;

Part 62—Approval and Promulgation of State Plans for Designated Facilities and Pollutants;

Part 63—National Emission Standards for Hazardous Air Pollutants for Source Categories;

Part 70—State Operating Permit Programs;

Part 72—Federal Operating Permits Programs;

Part 272—Approved State Hazardous Waste Management Programs; and

Part 281—Approval of State Underground Storage Tank Programs.

WY DEQ was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Dated: October 12, 2012.

Andrew Battin,

Director, Office of Information Collection.

[FR Doc. 2012–26382 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9005–7]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements Filed 10/15/2012 Through 10/19/2012

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

SUPPLEMENTARY INFORMATION:

As of October 1, 2012, EPA will not accept paper copies or CDs of EISs for filing purposes; all submissions on or after October 1, 2012 must be made through e-NEPA. While this system eliminates the need to submit paper or CD copies to EPA to meet filing requirements, electronic submission does not change requirements for distribution of EISs for public review and comment. To begin using e-NEPA, you must first register with EPA's electronic reporting site—*https://cdx.epa.gov/epa_home.asp.*

EIS No. 20120334, Draft EIS, USFS, OR, Oregon Dunes NRA Management Area 10(C) Designated Routes Project,

Central Coast Ranger District, Oregon Dunes National Recreation Area, Siuslaw National Forest, Coos, Douglas, and Lane Counties, OR, Comment Period Ends: 12/10/2012, Contact: Angie Morris 541–271–6040.

EIS No. 20120335, Final EIS, USFWS, CA, Tehachapi Uplands Multiple Species Habitat Conservation Plan (TUMSHCP), Propose Issuance of a 50-Year Incidental Take Permit for 27 Federal-and State-Listed and Unlisted Species, New Information and a Revised Range of Alternatives, Kern County, CA, Review Period Ends: 11/26/2012, Contact: Roger Root 805–644–1766.

EIS No. 20120336, Draft EIS, USACE, TX, Luce Bayou Interbasin Transfer Project, Harris and Liberty Counties, TX, Comment Period Ends: 12/10/2012, Contact: Jayson Hudson 409–766–3108.

EIS No. 20120337, Draft EIS, FHWA, AR, Northwest Arkansas Regional Airport Intermodal Access Road, Benton County, AR, Comment Period Ends: 12/14/2012, Contact: Randal Looney 501–324–5625.

EIS No. 20120338, Final EIS, USACE, CA, Isabella Lake Dam Safety Modification Project, To Remediate Seismic, Seepage, and Hydrologic Deficiencies in the Main Dam, Spillway and Auxiliary Dam, Kern County, CA, Review Period Ends: 11/26/2012, Contact: Carlos Lazo 916–557–5158.

EIS No. 20120339, Final EIS, USACE, AK, Alaska Stand Alone Gas Pipeline, Construction and Operation of a 737 mile Pipeline to Transport Supply of Natural Gas and Natural Gas Liquids from Alaska's North Slope to Fairbanks, Anchorage and the Cook Inlet Area by 2019, USACE Section 10 and 404 Permits, NPDES Permit, AK, Review Period Ends: 11/26/2012, Contact: Mary Romero 907–753–2773.

EIS No. 20120340, Draft EIS, FHWA, IN, I–69 Evansville to Indianapolis, Tier 2, Indiana Project, Section 5, Bloomington to Martinsville, Monroe and Morgan Counties, IN, Comment Period Ends: 01/02/2013, Contact: Michelle Allen 317–226–7344.

EIS No. 20120341, Draft EIS, USFS, AK, Big Thorne Project, Proposes to Harvest Timber, Build New Roads, and Reconstruct Roads, Thorne Bay Ranger District, Tongass National Forest, AK, Comment Period Ends: 12/10/2012, Contact: Frank W. Roberts 907–828–3250.

EIS No. 20120342, Draft EIS, GSA, VA, U.S. Department of State Bureau of Diplomatic Security, Foreign Affairs Security TrainingCenter (FASTC), Nottoway County, VA, Comment Period Ends: 12/10/2012, Contact: Abigail Low 215–446–4815.

EIS No. 20120343, Draft EIS, FHWA, WI, West Waukesha Bypass County TT, from I–94 to WIS 59, Waukesha County, WI, Comment Period Ends: 12/10/2012, Contact: George Poirier 608–829–7500.

Amended Notices

EIS No. 20120279, Draft EIS, VA, CA, San Francisco Veterans Affairs Medical Center (SFVAMC) Long Range Development Plan, Implementation, Fort Miley, San Francisco County, CA, Comment Period Ends: 10/31/2012, Contact: Allan Federman 415–221–4810.

Revision to FR Notice Published 08/31/2012; Extending Comment Period from 10/16/2012 to 10/31/2012.

EIS No. 20120284, Draft EIS, USFS, CO, White River National Forest Oil and Gas Leasing, Eagle, Garfield, Gunnison, Mesa, Moffat, Pitkin, Rio Blanco, Routt, and Summit Counties, CO, Comment Period Ends: 10/30/2012, Contact: David Francomb 970–963–2266, ext. 3136.

Revision to FR Notice Published 08/31/2012;

Extending Comment Period from 10/30/2012 to 11/30/2012.

Dated: October 23, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–26377 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9745–9]

2012 Fall Joint Meeting of the Ozone Transport Commission and the Mid-Atlantic Northeast Visibility Union

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency is announcing the joint 2012 Fall Meeting of the Ozone Transport Commission (OTC) and the Mid-Atlantic Northeast Visibility Union (MANE–VU). The meeting agenda will include topics regarding reducing ground-level ozone precursors and matters relative to Regional Haze and visibility improvement in Federal Class I areas in a multi-pollutant context.

DATES: The meeting will be held on November 15, 2012 starting at 9:00 a.m. and ending at 4:00 p.m.

Location: The Madison, 1177 Fifteenth Street NW., Washington, DC 20005; (202) 862–1600.

FOR FURTHER INFORMATION CONTACT:

For documents and press inquiries contact: Ozone Transport Commission, 444 North Capitol Street NW., Suite 322, Washington, DC 20001; (202) 508–3840; email: *ozone@otcair.org;* Web site: *http://www.otcair.org.*

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 provisions for the Control of Interstate Ozone Air Pollution. Section 184(a) establishes an Ozone Transport Region (OTR) comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia. The purpose of the OTC is to deal with ground-level ozone formation, transport, and control within the OTR.

MANE–VU was formed in 2001, in response to EPA's issuance of the Regional Haze rule. MANE–VU's members include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the Penobscot Indian Nation, the St. Regis Mohawk Tribe along with EPA and Federal Land Managers.

Type of Meeting: Open.

Agenda: Copies of the final agenda will be available from the OTC office (202) 508–3840; by email: *ozone@otcair.org* or via the OTC Web site at *http://www.otcair.org.*

Dated: October 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–26381 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9745–2]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), notice is hereby

given of a proposed administrative settlement concerning the Gulf State Utilities—North Ryan Street Superfund Site, Lake Charles, Calcasieu Parish, Louisiana.

The settlement requires the two (2) settling parties to pay a total of $275,000.00 as payment of response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before November 26, 2012.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Stephen Capuyan at 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–2163. Comments should reference the Gulf State Utilities—North Ryan Street Superfund Site, Lake Charles, Calcasieu Parish, Louisiana and EPA Docket Number 06–10–12, and should be addressed to Stephen Capuyan at the address listed above.

FOR FURTHER INFORMATION CONTACT: Edwin Quinones, Assistant Regional Counsel, 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–8035.

Dated: October 17, 2012.

Ron Curry,

Regional Administrator (6RA).

[FR Doc. 2012–26432 Filed 10–25–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before November 26, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0718.

Title: Part 101 Rule Sections Governing the Terrestrial Microwave Fixed Radio Service.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, federal government and state, local or tribal government.

Number of Respondents: 27,342 respondents; 27,342 responses.

Estimated Time per Response: 1.2962475 hours.

Frequency of Response: On occasion and 10 year reporting requirements, third party disclosure requirements and recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i), 301, 303(f), 303(g), 303(r), 307, 308, 309, 310 and 316 of the Communications Act of 1934, as amended.

Total Annual Burden: 35,442 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: No questions of a confidential nature are requested. Needs and Uses: The Commission is seeking OMB approval for a revision of this information collection (IC). We will submit this IC to OMB during this 30 day comment period. The Commission is reporting a 200 hour program change increase in burden and a $50,000 program change increase in annual costs. The increase in burden hours is due to FS operators compliance with the Rural Microwave Flexibility Policy adopted and released on August 3, 2012 in FCC 12–87, WT Docket No. 10–153, *Backhaul Second Report and Order.*

With the adoption of the *Backhaul Second Report and Order* the Commission adopted a Rural Microwave Flexibility Policy directing the Commission's Wireless Telecommunications Bureau to favorably consider waivers of the payload capacity requirements if Fixed Service (FS) applicants demonstrate compliance with certain criteria, which is adding a new reporting and recordkeeping requirement to this information collection.

The Policy directs the Bureau to favorably consider waivers of the requirements for payload capacity of equipment if the applicants demonstrate equipment compliance with the following criteria:

—The interference environment would allow the applicant to use a less stringent Category B antenna (although the applicant could choose to use a higher performance Category A antenna;

—The applicant specifically acknowledges its duty to upgrade to a Category A antenna and come into

compliance with the applicable efficiency standard if necessary to resolve an interference conflict with a current or future microwave link pursuant to 47 CFR 101.115(c);

—The applicant uses equipment that is capable of readily being upgraded to comply with the applicable payload capacity requirement, and provide a certification in its application that its equipment complies with this requirement;

—Each end of the link is located in a rural area (county or equivalent having population density of 100 persons per square mile or less);

—Each end of the link is in a county with a low density of links in the 4, 6, 11, 18 and 23 GHz bands;

—Neither end of the link is contained within a recognized antenna farm; and

—The applicant describes its proposed service and explains how relief from the efficiency standards will facilitate providing that service (*e.g.,* by eliminating the need for an intermediate hop) as well as the steps needed to come into compliance should an interference conflict emerge.

There is no change to the existing third party disclosure requirements. Additionally, Part 101 rule section require various information to be reported to the Commission; coordinated with third parties; posting requirements; notification requirements to the public; and recordkeeping requirements maintained by the applicant. This information is needed to determine the technical, legal and other qualifications of applications to operate a station in the public and private operational fixed services.

The information submitted to the Commission is used to determine compliance with 47 U.S.C. sections 309 and 310.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–26423 Filed 10–25–12; 8:45 am]

BILLING CODE 6712–01–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 November 13, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Jill M. Frei Trust, Wagner, South Dakota, (Security National Bank of South Dakota, Dakota Dunes, South Dakota, trustee; Jill M. Frei with power to vote shares);* to acquire voting shares of Commercial Holding Company, and thereby indirectly acquire voting shares of Commercial State Bank of Wagner, both in Wagner, South Dakota.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Number One-A Irrevocable Trust, Number Two-A Irrevocable Trust, and John A. Fox, trustee,* all of Denver, Colorado; to become members of the Sturm control group, and acquire voting shares of Sturm Financial Group, Inc., and thereby indirectly acquire voting shares of ANB Bank, both in Denver, Colorado.

C. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Robert Edward Berryhill,* individually and as co-trustee of Bastrop Bancshares, Inc., Employee Stock Ownership Plan, Smithville, Texas; to acquire voting shares of Bastrop Bancshares, Inc., and indirectly acquire voting shares of First National Bank, Bastrop, Texas.

Board of Governors of the Federal Reserve System, October 23, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–26368 Filed 10–25–12; 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 November 23, 2012.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Independent Bancshares, Inc., Clarkfield, Minnesota; to acquire 100 percent of the voting shares of Security State Bank of Fergus Falls, Fergus Falls, Minnesota.

Board of Governors of the Federal Reserve System, October 23, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–26367 Filed 10–25–12; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–R03–2012–01; Docket No. 2012–0002; Sequence 23]

Notice of Public Meeting for the Draft Environmental Impact Statement for the Foreign Affairs Security Training Center in Nottoway County, VA

AGENCY: United States General Services Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Council on Environmental Quality (CEQ) regulations, implementing the procedural provisions of the National Environmental Policy Act (NEPA), the U.S. General Services Administration (GSA) has prepared and filed a Draft Environmental Impact Statement (EIS) with the U.S. Environmental Protection Agency (EPA). GSA is the lead agency; cooperating agencies are U.S. Department of State (DOS), U.S. Army Corps of Engineers, EPA, and National Guard Bureau. The Draft EIS was prepared to evaluate the environmental impacts of site acquisition and development of the DOS, Bureau of Diplomatic Security, Foreign Affairs Security Training Center (FASTC) at the Virginia Army National Guard's Maneuver Training Center at Fort Pickett and Nottoway County's Pickett Park in Nottoway County, Virginia. The project would be developed on land currently operated or owned by the Virginia Army National Guard and Nottoway County. The purpose of the proposed FASTC in Nottoway County is to consolidate existing dispersed training functions into a single suitable location to improve training efficiency and enhance training operations. More detailed information on the FASTC program is available at *http://www.state.gov/recovery/fastc.*

DATES: *Comment date:* The public may submit comments on the Draft EIS during a 45-day public review and comment period beginning October 26, 2012 with publication of this notice and ending on December 10, 2012. Instructions for submitting comments may be found under the heading ''Supplemental Information'' in this notice.

Public Meeting: A public information meeting is scheduled for November 7, 2012, between 6:30 p.m. and 8:30 p.m. at the Blackstone Conference and Retreat Center located at 707 Fourth Street, Blackstone VA, 23824. Informational posters will be on display in the Dining Hall, and representatives from GSA and DOS will be available to explain the proposed project, answer questions, and receive comments from the public. An informational presentation followed by an informal question and answer session will take place in the Auditorium from 7:00 p.m. to 7:45 p.m. Comments cards and a stenographer will be available for the public to provide formal written comments.

ADDRESSES: Send written comments by mail to: Ms. Abigail Low, GSA Project Manager, 20 N 8th Street, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Ms. Abigail Low, GSA Project Manager, email: *FASTC.info@gsa.gov* or telephone: (215) 446–4815.

SUPPLEMENTARY INFORMATION: The purpose of the proposed FASTC at Fort Pickett is to consolidate existing dispersed training functions into a single suitable location to improve training efficiency and enhance training operations. The proposed FASTC is needed to establish a facility from which DOS Bureau of Diplomatic Security may conduct a wide array of law enforcement and security training to meet the increased demand for well-trained personnel. A Notice of Intent to prepare an EIS was published in the **Federal Register** on October 4, 2011 (Volume 76, No. 192). A 30-day public scoping comment period was held from October 4, 2011 to November 3, 2011. Two build alternatives and a no action alternative have been evaluated in the Draft EIS. The Preferred Alternative is Alternative 2; construction of the FASTC program, including driving tracks, firing ranges, mock urban environments, explosives ranges, classrooms, simulation labs, a fitness center, administrative offices, dormitories, and a dining hall, on four adjacent parcels at Fort Pickett and Pickett Park in Nottoway County, VA.The Draft EIS has been distributed to various federal, state, and local agencies. The Draft EIS is available for review on the project Web site *http://www.state.gov/recovery/fastc.* A printed copy of the Draft EIS is available for viewing at the following libraries:

- Nottoway County Library—Louis Spencer Epes Memorial Library, 415 South Main St, Blackstone, VA
- Amelia County—James L. Hamner Public Library, 16351 Dunn Street, Amelia, VA
- Brunswick County—Brunswick County Library, 133 W. Hicks Street, Lawrenceville, VA
- Dinwiddie County—Dinwiddie Library, 14103 Boydton Plank Road, Dinwiddie, VA
- Lunenburg County—Ripberger Library, 117 South Broad St., Kenbridge, VA
- Prince Edward County—Farmville—Prince Edward Community Library, 1303 West 3rd Street, Farmville, VA
- Chesterfield County—Central Library, 9501 Lori Road, Chesterfield, VA
- Mecklenburg County—Southside Regional Library, 316 Washington Street, Boydton, VA

Federal, state, and local agencies, and other interested parties, are invited and encouraged to be present or represented at the public meeting on November 7, 2012. All formal comments will become part of the public record and substantive comments will be responded to in the Final EIS. Comments on the Draft EIS can be submitted three ways: (1) Submit comments via the FASTC email address: *FASTC.info@gsa.gov,* (2) provide written or oral (recorded by a stenographer) comments during the public meeting, or (3) mail a comment form or letter to: Ms. Abigail Low, GSA Project Manager, 20 N 8th Street, Philadelphia, PA 19107. Written comments postmarked by December 10, 2012 will become part of the official public record.

Dated: October 16, 2012.

Leonard Purzycki,

Director of FM&SP, GSA Mid Atlantic Region.

[FR Doc. 2012–26199 Filed 10–25–12; 8:45 am]

BILLING CODE 6820–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Renewal of Charters for Certain Federal Advisory Committees

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, as amended (5 U.S.C. App), the U.S. Department of Health and Human Services is hereby announcing that the charters have been renewed for the following federal advisory committees for which Office of the Assistant Secretary for Health provides management support: Chronic Fatigue Syndrome Advisory Committee (CFSAC); President's Council on Fitness, Sports, and Nutrition (PCFSN); Secretary's Advisory Committee on Human Research Protections (SACHRP); and Advisory Committee on Blood Safety and Availability (ACBSA). Functioning as federal advisory committees, these committees are governed by the provisions of the Federal Advisory Committee Act (FACA). Under FACA, the charter for a federal advisory committee must be renewed every two years in order for the committee to continue to operate.

FOR FURTHER INFORMATION CONTACT: Olga B. Nelson, Committee Management Officer, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, 200 Independence Avenue SW., Room 714B; Washington, DC 20201; (202) 690–5205.

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002 as a discretionary federal advisory committee. The Committee was established to advise, consult with, and make recommendations to the Secretary, through the Assistant Secretary for Health, on a broad range of topics including (1) The current state of knowledge and research about the epidemiology and risk factors relating to chronic fatigue syndrome (CFS), and identifying potential opportunities in these areas; (2) current and proposed diagnosis and treatment methods for chronic fatigue syndrome; and (3) development and implementation of programs to inform the public, health care professionals, and the biomedical, academic, and research communities about chronic fatigue syndrome advances.

One amendment was proposed and approved for the new charter. The Committee structure has been expanded to include three non-voting liaison representative positions. These positions will be occupied by representatives from organizations that have interest in, and/or are concerned with, the issues of individuals with CFS. Individuals will be designated by their organizations to serve as non-voting liaison representatives for a term not to exceed two years. The designated federal officer (DFO) for CFSAC or designee will select the organizations to serve in the non-voting liaison representative positions. The non-voting liaison representatives will not receive compensation.

On August 29, 2012, the Secretary of Health and Human Services approved renewal of the CFSAC charter. The new charter was made effective and filed with the appropriate Congressional committees and the Library of Congress on September 5, 2012. Renewal of the CFSAC charter provides authorization for the Committee to continue to operate until September 5, 2014. A copy of the Committee charter is available on the CFSAC Web site at *http://www.hhs.gov/advcomcfs.*

The PCFSN is a non-discretionary federal advisory committee. The PCFSN was established under Executive Order 13545, dated June 22, 2010. This authorizing directive was issued to amend the purpose, function, and name of the Council, which formerly operated as the President's Council on Physical Fitness and Sports (PCPFS). The scope of the Council was changed to include nutrition to bring attention to the importance of good nutrition with regular physical activity for maintaining a healthy lifestyle. The PCFSN is the only federal advisory committee that is focused solely on the promotion of physical activity, fitness, sports, and nutrition. Since the PCFSN was established by Presidential directive, appropriate action had to be taken by the President or agency head to authorize continuation of the PCFSN. The President issued Executive Order 13585, dated September 30, 2011, authorizing the PCFSN to continue to operate until September 30, 2013.

No amendments were recommended for the PCFSN charter. The charter was approved by the Secretary of Health and Human Services and filed with the appropriate Congressional committees and the Library of Congress on September 10, 2012. A copy of the Council charter is available on the PCFSN Web site at *http://fitness.gov.*

SACHRP is a discretionary federal advisory committee. SACHRP provides advice to the Secretary, through the Assistant Secretary for Health, on matters pertaining to the continuance and improvement of functions within the authority of the Department of Health and Human Services concerning protections for human subjects in research.

No amendments were recommended for the SACHRP charter. On September 21, 2012, the Secretary of Health and Human Services approved renewal of the SACHRP charter. The new charter was filed with the appropriate Congressional committees and the Library of Congress on October 1, 2012. SACHRP is authorized to continue to operate until October 1, 2014. A copy of the charter is available on the Committee Web site at *http://www.hhs.gov/ohrp/sachrp/.*

The ACBSA is a discretionary federal advisory committee. The Committee was established to provide advice to the Secretary, through the Assistant Secretary for Health, on a range of policy issues around the safety and availability of the blood supply and blood products.

The following amendments were proposed and approved for the ACBSA charter: (1) The Committee title has been changed to *Advisory Committee on Blood and Tissue Safety and Availability* (ACBTSA); (2) the scope of work to be performed by the Committee has been clarified. For solid organs and blood stem cells, the Committee's scope will be limited to policy issues related to donor derived infectious disease complications of transplantation; (3) the Committee's scope of activities and duties have been expanded to include tissues because the ACBTSA has responsibility for providing advice and making recommendations on transplantation; and (4) the Committee structure has been expanded to increase the number of official representative members to nine to allow representation from the American Association of Tissue Banks, the Eye Bank Association of America, and an organ procurement organization.

On October 9, 2012, the new charter was approved by the Secretary of Health and Human Services and filed with the appropriate Congressional committees and the Library of Congress. ACBTSA is authorized to operate until October 9, 2014. A copy of the charter can be obtained on the ACBTSA Web site at *http://www.hhs.gov/ash/bloodsafety/index.html.*

Copies of the charters for the designated committees also can be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The Web site address for the FACA database is *http://fido.gov/facadatabase.*

Dated: October 22, 2012.

Howard K. Koh,

Assistant Secretary for Health.

[FR Doc. 2012–26395 Filed 10–25–12; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Intent To Establish the 2015 Dietary Guidelines Advisory Committee and Solicitation of Nominations for Appointment to the Committee Membership

AGENCY: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health; and U.S. Department of Agriculture, Food, Nutrition, and Consumer Services and Research, Education and Economics.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) is working jointly with the U.S. Department of Agriculture (USDA) to establish the 2015 Dietary Guidelines Advisory Committee (DGAC). It is planned for the Committee to be established in the beginning of calendar year 2013. This notice also will serve to announce that an invitation is being extended for nominations of individuals who are interested in being considered for appointment to the Committee.

DATES: Nominations must be submitted no later than close of business November 26, 2012.

ADDRESSES: Nominations may be submitted by email to

DG2015Nominations@hhs.gov. This address can be accessed through the Internet at the following Web site address: *www.dietaryguidelines.gov.* Nominations also may be sent to: Richard D. Olson, M.D., M.P.H., Prevention Science Lead and Designated Federal Officer, 2015 DGAC; Office of Disease Prevention and Health Promotion, OASH; U.S. Department of Health and Human Services; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852; Telephone: (240) 453–8280; Fax: (240) 453–8281.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, 2015 DGAC, Richard D. Olson and/or HHS Co-Executive Secretary, 2015 DGAC: Kellie (O'Connell) Casavale, Ph.D., RD; Office of Disease Prevention and Health Promotion, OASH/DHHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone (240) 453–8280; Fax: (240) 453–8281. Lead USDA Co-Executive Secretary, Colette I. Rihane, M.S., R.D., Director, Nutrition Guidance and Analysis Division, Center for Nutrition Policy and Promotion; U.S. Department of Agriculture; 3101 Park Center Drive, Room 1034; Alexandria, VA 22302; Telephone: (703) 305–7600; Fax: (703) 305–3300. USDA Co-Executive Secretary, Shanthy A. Bowman, Ph.D.; Nutritionist, Food Surveys Research Group, Beltsville Human Nutrition Research Center, Agricultural Research Service, USDA; 10300 Baltimore Avenue, BARC-West Bldg 005, Room 125; Beltsville, MD 20705–2350; Telephone: 301–504–0619. Additional information about the 2015 DGAC is available on the Internet at *www.dietaryguidelines.gov.*

SUPPLEMENTARY INFORMATION: *Authority and Purpose:* Under Section 301 of the National Nutrition Monitoring and Related Research Act of 1990, the Secretaries of HHS and USDA are required to publish the *Dietary Guidelines for Americans* (hereinafter referred to as the *Guidelines*) at least every five years. The *Guidelines* were first published by HHS and USDA in 1980, with revisions in 1985, 1990, 1995, 2000, 2005, and 2010. The *Guidelines* contain nutrition and dietary information for the general public. Because of its focus on health promotion and risk reduction, the *Guidelines* form a basis for federal food and nutrition policy and education activities. The information and key recommendations of the *Guidelines* are based on the preponderance of scientific and medical knowledge which is current at the time.

Beginning with the 1985 edition, the Secretaries of HHS and USDA have established a DGAC to provide advice and make recommendations regarding the *Guidelines,* based on a thorough evaluation of recent scientific and applied literature. The DGAC is composed of experts in nutrition and health. The Committee is established as a federal advisory committee and is governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C., App.). Formation of the 2015 DGAC is necessary and in the public interest.

The Committee is expected to begin meeting during the Spring/Summer of 2013; the Committee will meet, at a minimum, four times during the course of its operation. Pursuant to the FACA, all Committee meetings will be open to the public. The 2015 DGAC will be established to accomplish a single time-limited task. The Committee will develop a report of its recommendations that will be presented to the Secretaries of HHS and USDA. Upon delivery of its report to the Secretaries, the activities of the 2015 DGAC will be terminated.

For those who are interested in reviewing the 2010 edition of the DGAC report, it is available at *www.dietaryguidelines.gov.* A limited number of hard copies of the report are available upon request from HHS and USDA.

Structure: It is proposed that the 2015 DGAC will consist of up to 17 members; one or more members will be selected to serve as the Chair, Vice Chair, and/or Co-Chairs. Prospective members of the DGAC should be knowledgeable of current scientific research in human nutrition and chronic disease and be respected and published experts in their fields. The prospective members also should be familiar with the purpose, communication, and application of the *Guidelines* and have demonstrated interest in the public's health and well-being through research and/or educational endeavors. Expertise will be sought in specific specialty areas that may include, but are not limited to, cardiovascular disease; type 2 diabetes, overweight and obesity; osteoporosis; cancer; pediatrics; gerontology; maternal/gestational nutrition; epidemiology; general medicine; energy balance, which includes physical activity; nutrient bioavailability; nutrition biochemistry and physiology; food processing science, safety and technology; public health; nutrition education and behavior change; and/or nutrition-related systematic review methodology.

Nominations: Nominations, including self nominations, of individuals who have the above mentioned expertise and knowledge will be considered for appointment as members of the Committee. A nomination should include, at a minimum, the following for each nominee: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (i.e., specific attributes which qualify the nominee to be considered for appointment as a member of the 2015 DGAC), and a statement from the nominee that he/she would be willing to serve as a member of the Committee, if selected; (2) the nominator's name, address, and daytime telephone number, and the address, telephone number, and email address of the individual being nominated; and (3) a current copy of the nominee's curriculum vitae or resume, which should be limited to no more than 10 pages.

Equal opportunity practices regarding membership appointments to the 2015 DGAC will be aligned with HHS and USDA policies. Every effort will be made to ensure that the Committee is a diverse group of individuals with representation from various geographic locations, racial and ethnic minorities, women, and persons with disabilities.

Individuals will be appointed to serve as members of the Committee to represent balanced viewpoints of the scientific evidence, not to represent the viewpoints of any specific group. Members of the 2015 DGAC will be classified as special Government employees (SGEs) during their term of appointment on the Committee, and as such are subject to the ethical standards of conduct for federal employees. Upon entering the position and annually throughout the term of appointment, members of the 2015 DGAC will be required to complete and submit a report of their financial holdings.

Dated: October 22, 2012.

Howard K. Koh,

Assistant Secretary for Health, U.S. Department of Health and Human Services.

Dated: October 16, 2012.

Kevin W. Concannon,

Under Secretary, Food, Nutrition, and Consumer Services, U.S. Department of Agriculture.

Dated: October 16, 2012.

Catherine E. Woteki,

Chief Scientist and Under Secretary Research, Education, and Economics, U.S. Department of Agriculture.

[FR Doc. 2012–26387 Filed 10–25–12; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 77 FR 53889–53890, dated September 4, 2012) is amended to reorganize the Office of Surveillance, Epidemiology and Laboratory Services, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the titles and functional statements for the Public Health Informatics and Technology Program (CPH), and the Public Health Surveillance Program Office (CPJ) and insert the following:

Public Health Surveillance and Informatics Program Office (CPM). The mission of the Public Health Surveillance and Informatics Program Office (PHSIPO) is to advance the science and practice of public health surveillance and informatics. PHISPO (1) manages public health surveillance systems with cross-cutting utility for multiple CDC programs, and (2) serves as a focal point at CDC for addressing common issues, fostering innovation, and advancing best practices in the fields of public health surveillance and informatics. The disciplines of public health surveillance and informatics are strongly inter-related. Informatics concerns the collection, classification, storage, and retrieval and dissemination of recorded knowledge. Surveillance involves the collection, management, analysis, interpretation, and dissemination of information about the health of populations in order to inform and guide public health programs. PHISPO strives to improve the usefulness and the impact of public health surveillance and to improve information and knowledge management across the public health enterprise information technology and health information exchange, in public health surveillance and informatics.

Office of the Director (CPM1). (1) Leads the development of policy, long-range plans, and programs of the Public Health Surveillance and Informatics Program Office (PHSIPO); (2) serves as the focus for addressing common surveillance and informatics issues faced by programs across CDC; (3) identifies and disseminates evidence-based information regarding best practices for public health surveillance and information management; (4) plans, directs, enhances and collaboratively supports national surveillance programs and information technology initiatives, including the use of electronic health records, improving the nation's capability to monitor disease and provide public health situational awareness; (5) develops, recommends or implements policies and procedures relating to information management, informatics resource management and support services as appropriate; (6) facilitates coordination of surveillance and informatics activities across local, state, federal jurisdictions/agencies; (7) contributes to surveillance and informatics functions that are part of CDC's public health preparedness and response activities; (8) promotes a multidisciplinary approach (epidemiology, statistics, informatics, program evaluation, economic, qualitative, etc.) to assure that CDC surveillance and information systems serve public health program objectives; (9) coordinates the establishment and maintenance of internal CDC processes for decision-making regarding shared surveillance and informatics policies, practices, standards, and services that have applicability throughout CDC; (10) optimizes the portfolio of CDC's informatics and surveillance projects and systems by identifying and facilitating opportunities for cross-coordinating National Center/Institute/Office collaboration in order to leverage investments and promote efficiency and integration; and (11) collaborates and coordinates with all CDC organizations on informatics and health information technology issues and works closely with the Office of the Chief Information Officer on the interrelationships between informatics and information technology services, security, and information technology capital planning.

Business Management Activity (CPM12). (1) Provides leadership, oversight, and guidance in the management and operations of PHSIPO programs; (2) plans, coordinates, and provides administrative management support, advice, and guidance to the PHSIPO, involving the areas of fiscal management, procurement, property management, personnel, travel, and other administrative services; (3) coordinates the development of annual budget request; (4) conducts management analyses of the program office and programs and staff to ensure optimal utilization of resources and accomplishment of program objectives; (5) plans, allocates, and monitors resources; (6) maintains liaison and collaborates with other CDC components and external organizations in support of the program office management and operations; (7) works closely with other federal agencies involved with interagency agreements; (8) coordinates program office requirements relating to procurement, grants, cooperative agreements, material management, and interagency agreements; (9) provides fiscal management and stewardship of grants, contracts, and cooperative agreements; and (10) develops and implements administrative policies, procedures, and operations, as appropriate for the program office, and prepares special reports and studies, as required, in the administrative management areas.

Informatics Research and Development Activity (CPM13). (1) Advances the field of public health informatics through applied research and innovation; (2) collaborates with members of CDC programs as well as the broader public health community to develop innovative technologies and techniques to positively impact public health practice; (3) transitions new informatics solutions and techniques to the appropriate public health programs for deployment and implementation; (4) provides the program office, Office of Surveillance, Epidemiology and Laboratory Services (OSELS), CDC, and its external research and public health partners, consultation, guidance, support, and insight into the use of new informatics solutions for public health practice; (5) leverages its resources to rapidly create prototypes and examine hypotheses generated by the program office, OSELS, CDC, and its external research and public health partners; (6) provides OSELS and CDC an optimal (i.e., flexible and scalable) environment for the rapid development of prototype public health informatics solutions for testing and evaluation purposes; (7) performs relevant knowledge dissemination to CDC and its partners via multiple modalities, including presentations, manuscripts, and Web-based content; (8) provides education to fellows, colleagues, and partners on the tools/techniques/methodologies used by the Informatics Research and Development Activity (IRDA); and (9) provides regular updates to the program office and OSELS leadership as to the status of all projects in the technology

lab including both internal (IRDA) and external (non-IRDA CDC programs).

Biosurveillance Coordination Activities (CPM14). (1) Enhances the nation's biosurveillance capability by leading the development of a national biosurveillance strategy for human health which establishes priorities for the nation's next-generation biostuyeillance capability and provides timely, comprehensive, and accessible information to strengthen public health practice, provide value to clinicians, and builds upon current systems and resources; (2) establishes and maintains relationships across CDC and with external partners in other federal agencies, state, local, tribal, territorial, international surveillance organizations, and health care organizations and practitioners, to inform the direction and management of the biosurveillance enterprise; (3) links subject matter experts to efforts to support biosurveillance practice and development; (4) provides leadership for and outreach to biosurveillance stakeholders external to CDC; (5) provides oversight or manages federal advisory committees/subcommittees, including representatives from state and local government public health authorities, public and private biosurveillance stakeholders, and appropriate private sector health care entities; (6) establishes and maintains a national registry of biosurveillance systems, programs, collaboratives, registries, and tools; and (7) provides advice and guidance to CDC programs in order to advance the science of biosurveillance and promote effective use of biosurveillance information in meeting CDC's mission.

Division of Behavioral Surveillance (CPMB). (1) Plans and directs all activities related to the Behavioral Risk Factor Surveillance System (BRFSS), a state-based nationwide population survey focused on chronic conditions and risk behaviors and the largest telephone-based health survey in the world; (2) coordinates BRFSS surveillance activities across all states and CDC programs; (3) provides support to build state capacity for BRFSS survey operations and data management, and for the analysis, dissemination, and use of the data by state agencies and universities to set public health priorities and monitor public health programs; (4) develops guidelines and criteria for the enhancement of behavioral risk factor surveys at the state and local level; (5) delivers timely behavioral risk factor data of high validity and reliability to CDC scientists, the national public health community, and the general public; (6) supports and enhances analysis and dissemination of information from the BRFSS to promote the broad use and application of BRFSS results and findings by policy and decision makers, public health professionals, and other relevant audiences through communication channels and formats appropriate to these constituencies; (7) plans and coordinates cross cutting research related to survey methodology; (8) provides scientific leadership and guidance to surveillance programs to assure highest scientific quality and professional standards related to BRFSS; (9) provides leadership to CDC and other organizations to support effective and flexible public health surveillance for health conditions, including rapidly emerging public health threats; (10) builds and manages mental health surveys and provides support to the states for the collection and use of population data on mental health; and (11) provides administrative and management support, as required, for states and territories including oversight of BRFSS and other grants, cooperative agreements, and reimbursable agreements.

Division of Notifiable Diseases and Healthcare Information (CPMC). (1) Provides leadership to OSELS, CDC, and other organizations to promote and support effective public health surveillance for notifiable diseases and conditions; (2) facilitates and advances the integration of informatics, epidemiologic, and statistical methods in developing the use of automated healthcare information systems for situation awareness, public health surveillance, and population health; (3) coordinates activities associated with automated health-related data, public health syndromic surveillance and monitoring diseases that are reportable under state laws; (4) provides epidemiologic and statistical assistance and consultation in support of automated healthcare (including syndromic), health-related data, and notifiable conditions surveillance; (5) implements innovative technological and statistical techniques for analysis and reporting of public health surveillance data; (6) interacts with other CDC organizations, other governmental agencies, private organizations, and other outside groups in developing and promoting the use of automated healthcare information systems for surveillance purposes; (7) promotes the objective that public health program goals guide the development of new surveillance methods and the operation of national surveillance systems managed by the division; (8) reports surveillance information to inform public health interventions; and (9) supports and conducts research and evaluation projects that improve the ability of public health practitioners to use automated healthcare information for surveillance.

Office of the Director (CPMC1). (1) Plans, directs, coordinates, and manages the operations of the Division of Notifiable Diseases and Healthcare Information; (2) develops strategy, priorities, goals and objectives and provides leadership in policy formulation, communications, and guidance in program planning and development; (3) facilitates the science of the division and undertakes special scientific activities; (4) promotes active engagement with stakeholders and communities of practice; (5) coordinates division activities with other components of PHSPO, OSELS, CDC and other federal agencies; and (6) coordinates compliance with Office of Management and Budget and responses to the General Accountability Office.

Surveillance and Analysis Branch (CPMCB). (1) Oversees national surveillance and situation awareness actively used for public or population health practice and decision-making; (2) supports and conducts applied research and development activities, and evaluation projects that improve the ability of public health practitioners to use and analyze automated healthcare and health-related information for surveillance and situation awareness; (3) implements and develops new and innovative surveillance methods, and statistical or informatics tools used for surveillance; (4) fosters innovation, implementation and translation of research findings and best practices; (5) conducts surveillance evaluations; (6) provides epidemiologic assistance and consultation in support of automated healthcare (including syndromic) and notifiable conditions surveillance; (7) provides development and support for extramural activities, including cooperative agreements and grants; (8) coordinates technical assistance and consultations for major projects with key public health partners; (9) enhances and maintains partnerships with other federal agencies, state and local public health departments, national organizations, health plans, care networks, and regional health information networks to meet public health surveillance and informatics needs; (10) coordinates partner interactions and communications; (11) assures administrative and budgetary data is available on a timely basis and

in readily available formats for scientific staff.

Information Systems and Statistical Support Branch (CPMCC). (1) Provides statistical analysis and consultation, information management and dissemination services; (2) manages informatics interaction with other units within OSELS and other units within CDC which oversee surveillance practice; (3) facilitates and advances the integration of informatics, epidemiologic, and statistical methods and tools in developing the use of automated healthcare and health-related information systems in public health surveillance; (4) facilitates systems IT development, operations and maintenance; (5) oversees activities associated with information technology aspects and informatics processes of data collection, processing, reporting, management and sharing (includes hardware and software, systems certification); (6) oversees statistical support, data quality assessment, and data management of surveillance systems managed by the division, (7) fosters innovation, implementation and translation of informatics tools and methods and best practices; (8) provides development and support for extramural activities, including contracts; (9) promotes the coordination, evaluation, and integration of public health surveillance programs across CDC and public health partners; and (10) assures administrative and budgetary data is available on a timely basis and in readily available formats for scientific staff.

Division of Informatics Practice, Policy and Coordination (CPMD). (1) Establishes and maintains relationships for public health informatics across CDC, with partners and with other health care entities; (2) provides expertise and support to CDC staff, partners, and other health care entities on informatics methods, processes, policies, and standards; (3) promotes health standards and facilitates forums across CDC, sectors, and other federal agencies to ensure efficient data exchange, interoperability of systems, and consistent implementation of methods and policy; (4) promotes the interests of public health in the development of informatics standards (working with federal, state and local, and private sector initiatives and organizations) and initiatives (e.g. electronic health records, the Nationwide Health Information Network) to ensure the availability and utilization of expanded health data for public health purposes; (5) enhances the ability of public health officials to access and use data, information, systems, and technologies collected through traditional and non-traditional information systems, and through developing approaches to allow access while protecting privacy, confidentiality, and intellectual property rights; (6) enhances and maintains partnerships with other federal agencies, state and local public health departments, national organizations, health plans, care networks, regional health information exchanges to meet public health informatics needs; and (7) works towards more efficient and effective public health information systems by aligning informatics solutions with health information technology policies and translating emerging science, research and learning into practice.

Office of the Director (CPMD1). (1) Provides overall vision and strategic direction of the Division of Informatics Practice, Policy and Coordination (DIPPC) activities; (2) plans, directs, coordinates, implements, and manages DIPPC operational activities; (3) provides financial oversight of DIPPC activities; (4) provides division-level oversight to assure use of scientifically sound systems initiation and operation principles for programs and projects; (5) provides division-level oversight and management of scientific clearance process; (6) assures division-level adherence to Instructional Review Board (IRB), Office of Management and Budget (OMB), and other policy issues; (7) facilitates best practices for project management within the division; (8) provides operational oversight of Project Portfolio for OSELS to assure optimal resource utilization; (9) coordinates and facilitates division-level Capital Planning and Investment Control process issues; (10) evaluates, designs, and deploys, where appropriate, division-level processes, products and system for project management and system development; (11) assures the sharing of consistent, audience-appropriate, and high quality information relating to division-level activities, including Web-based, audio, video, and print-based media; (12) provides coordination of division-level activities relating to congressional inquiries and media entities; (13) facilitates division-level information sharing and relationship management activities internally to agency and externally to partners; and (14) facilitates preliminary development of project proposals by CDC and external partners.

Informatics Strategy and Translation Branch (CPMDB). (1) Provides the critical role of informatics translation for the Public Health Surveillance and Informatics Program Office (PHSIPO); (2) develops strategies to bridge the Information Research and Development Activity (IRDA) activities with the translation efforts in the branch to further the mission of OSELS while ensuring alignment with national efforts; (3) examines (with the support of IRDA) new informatics techniques and methods to address public health priorities and problem areas; (4) provides oversight and coordination of informatics activities of the Centers of Excellence and Health Information Exchanges to support the translation of applied science and to ensure dissemination to the public health Informatics community at large; (5) provides support in the translation of any prototype informatics research product (i.e., created by OSELS, internal or external CDC partners) to public health practice (i.e., full deployment and implementation) by providing the critical expertise to assure that in the translation process, appropriate data, systems, and architecture standards are leveraged appropriately; (6) participates on various standards committees to ensure the availability and utilization of expanded health data for public health purposes and ensure information is promulgated to appropriate public health partners and related programs; (7) works closely with the OSELS policy director on the coordination on health information technology policies (e.g. electronic health records, the Federal Health Architecture, Nationwide Health Information Network); and (8) consults and coordinates with the Division of Informatics Solutions and Operations on the implementation of health information technology standards in public health information systems.

Outreach and Consultation Branch (CPMDC). (1) Provides outreach and consultation to critical public health partners to articulate public health informatics needs and priorities; (2) works with the Informatics Strategy and Translation Branch to develop strategies to address these public health priority areas; (3) works within OSELS, CDC, HHS, and other public health partners to define requirements through communities of practice and generates best practices for the public health informatics community; (4) establishes and maintains relationships for public health informatics; (5) facilitates the coordination of informatics activities across OSELS, CDC, and other critical public health/healthcare partners; and (6) promotes the development and adoption of standards and certification, health information technology policies,

and articulates the implications for public health informatics programs.

Division of Informatics Solutions and Operations (CPME). (1) Provides informatics and information technology services to meet the needs of multiple programs across CDC, to meet the needs of CDC's external partner organizations and to further the informatics capabilities of public health generally; (2) analyses the information needs of public health programs and develops strategic solutions to address them; (3) provides expertise to client programs in information technology systems design, project management, data interchange strategies, data management, information technology security, information technology architecture, systems integration, technical standards, current technologies and best practice, rules governing federal information systems, and protocols for deploying and operating systems at CDC; (4) identifies opportunities for and develops shared information technology components that can be utilized by multiple programs and partners in order to increase efficiency, decrease cost, and promote interoperability and information sharing; (5) identifies opportunities for and develops information technology services that assist CDC programs and external partners; (6) provides expertise in and develops specifications for standards-based data interchanges for use by public health programs, and provides supporting services for electronic messaging such as online vocabulary management, message validation, security and credential management, routing and directory management; (7) provides management of large, complex datasets, provides data analytics and processes for transforming and translating data into useable form for scientific analysis, and provides mechanisms to make data accessible and available; (8) provides direct consultation and technical assistance to CDC programs and to external partners in order to help them achieve the technical and informatics capabilities required or endorsed by CDC; (9) develops and fosters adoption of informatics standards; (10) provides operational support of multiple public health programs through provision of informatics and information technology services; and (11) contributes to enhancement of informatics capability in the public health workforce.

Office of the Director (CPME1). (1) Provides scientific leadership in public health informatics, identifies new developments in the field of informatics that have the potential to improve the practice of public health informatics, and applies this leadership and expertise in providing informatics and information technology services to meet the needs of multiple programs across CDC, to meet the needs of CDC's external partner organizations and to further the informatics capabilities of public health; (2) plans, directs, coordinates, implements, and manages Division of Informatics Solutions and Operations (DISO) operational activities; (3) provides financial oversight of DISO activities; (4) provides division-level oversight to assure use of systems and project management practices that are in accord with industry best practices and HHS and federal guidelines; (5) provides division-level oversight and management of scientific clearance process; (6) assures division-level adherence to IRB, OMB, and other policy issues; (7) provides operational oversight of Project Portfolio for DISO to assure optimal resource utilization; (8) coordinates and facilitates division-level Capital Planning and Investment Control (CPIC) process issues; (9) evaluates, designs, and deploys, where appropriate, division-level processes, products and systems for project management and system development and operations; (10) assures the sharing of consistent, audience-appropriate, and high quality information relating to division-level activities, including Web-based, audio, video, and print-based media; (12) provides coordination of division-level activities relating to congressional inquiries and media entities; (13) facilitates division-level information sharing and relationship management activities internally to agency and externally to partners; and (14) facilitates preliminary development of project proposals by CDC and external partners.

Surveillance Services Branch (CPMEB). (1) Develops, maintains, and operates informatics shared services that support large-scale surveillance programs managed and operated by OSELS; (2) provides OSELS with information technology services that cross application and programmatic boundaries; (3) guides OSELS, CDC, and public health partners in the development and use of standardized messaging services and software; (4) provides vocabulary services to OSELS, CDC, and public health partners promoting the use of standards-based vocabulary in public health information systems; (5) plans, designs, engineers, and operates the data and information technology services architecture underlying OSELS surveillance activities; (6) provides guidance for development and/or implementation of the services required for compliance with federal architecture and operational standards to CDC; and (7) provides guidance and support to OSELS, CDC, and external partners in the design, development and operation of surveillance systems.

Enterprise Systems Branch (CPMEC). (1) Develops, implements, maintains, and operates enterprise systems and applications to meet the needs of public health programs across CDC and CDC's external partner organizations, in support of OSELS and CDC programmatic direction; (2) ensures that systems and applications are based on both informatics science and programmatic need and supports ongoing service commitments to partner programs and agencies; (3) provides guidance and support to OSELS, CDC, and external partners in the design and operation of information technology systems and applications; and (4) provides guidance for development and/or implementation of applications required to support programmatic needs in compliance with national architecture and operational standards.

Management Operations Security and Standards Branch (CPMED). (1) Provides consultation and services to support and expedite the deployment and operation of PHSIPO systems; (2) provides consultation, guidance, support, and insight into technical standards, security requirements, and architectural and operational constraints within the CDC network and/or within federal government, as applicable; (3) provides oversight of adherence to standards and security policies for development, implementation, and operation of OSELS information technology; (4) provides security services for OSELS systems and manages the certification and accreditation process for PHSIPO systems; (5) coordinates interaction and liaisons between PHSIPO systems and information technology project teams and CDC system hosting and network operations teams; and (6) ensures that strategic activities and strategic partnerships meet required policies.

Dated: September 25, 2012.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2012–26283 Filed 10–25–12; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 77 FR 53889–53890, dated September 4, 2012) is amended to reorganize the Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows: Delete in its entirety the title for the Innovation and Special Projects Activity (CAS 13), Office of the Associate Director for Science (CAS), and insert the title Special Projects Activity (CAS13).

Dated: September 21, 2012.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2012–26284 Filed 10–25–12; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10261]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title:* Part C Medicare Advantage Reporting Requirements and Supporting Regulations in 42 CFR 422.516(a); *Use:* The Centers for Medicare and Medicaid Services (CMS) established reporting requirements for Medicare Advantage Organizations (MAOs) under the authority described in 42 CFR 422.516(a). It is noted that each MAO must have an effective procedure to develop, compile, evaluate, and report to CMS, to its enrollees, and to the general public, at the times and in the manner that CMS requires, and while safeguarding the confidentiality of the doctor-patient relationship, statistics and other information with respect to the cost of its operations, patterns of service utilization, availability, accessibility, and acceptability of its services, developments in the health status of its enrollees, and other matters that CMS may require.

CMS also has oversight authority over cost plans which includes establishment of reporting requirements. The data requirements in this supporting statement are specifically relevant to the cost plan requirements in section 1876(c)(1)(C) of the Social Security Act which establishes beneficiary enrollment and appeal rights.

CMS initiated new Part C reporting requirements with the Office of Management and Budget (OMB) approval of the ''Information Collection Request'' (ICR) under the Paperwork Reduction Act of 1995 (PRA) in December, 2008 (OMB # 0938-New; CMS–10261). National PACE plans and 1833 cost plans are excluded from reporting all the new Part C Reporting Requirements measures. The initial ICR involved thirteen measures. Two of these thirteen measures have been suspended from reporting because the information is available elsewhere: Measurement #10 *Agent Compensation Structure* and; Measurement #11 *Agent Training and* Testing. One new measure was added beginning 2012: Enrollment and Disenrollment. The ICR Reference number is 201105–0938–008. The OMB control number is 0938–1054.

CMS suspended the ''Benefit Utilization'' measure in late 2011. Thus, calendar year 2011 benefit utilization data were not reported. This suspension remains in effect and will lead to a reduction in burden. CMS is requesting the suspension of two additional measures: ''Procedure Frequency'' and Provider Network Adequacy.'' The suspensions are all due to the fact that equivalent data are already being collected or are available through other sources in CMS. These suspensions will lead to a decrease in burden. CMS is adding one additional data element to its ''grievances'' measure. The grievance measure currently has 10 reporting categories. The additional category will be ''CMS Issues.'' This will add a slight increase to burden for this measure only. As a result of ''lessons learned'' after the publication of the 60-day notice, CMS proposes to make the Part C measure, Plan Oversight of Agents, consistent with the corresponding Part D section. Instead of reporting six data elements, contracts will now be required to report ten data elements. This change added a slight increase in burden. Overall, the approval of this ICR will lead to an estimated burden reduction of 85,594 hours and $5,217,603 in costs on an annual basis. *Form Number:* CMS–10261(OCN#: 0938–1054); *Frequency:* Yearly, Quarterly; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 1,375; *Total Annual Responses:* 6,715; *Total Annual Hours:* 123,326. (For policy questions regarding this collection contact Terry Lied at 410–786–8973. For all other issues call 410–786–1326.)

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on November 26, 2012.

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, Email: *OIRA_submission@omb.eop.gov.*

Dated: October 23, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–26378 Filed 10–25–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10451]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Evaluation and Development of Outcome Measures for Quality Assessment in Medicare Advantage and Special Needs Plans; *Use:* Quality improvement is a major initiative for the Centers for Medicare and Medicaid Services (CMS). With the passing of the Patient Protection and Affordable Care Act in March 2010, there is a focused interest in providing quality and value-based healthcare for Medicare beneficiaries. In addition, it is critical to develop criteria not only for quality improvement but also as a means for beneficiaries to compare healthcare plans to make the choice that is right for them.

It is critical to the CMS mission to expand its quality improvement efforts from collection of structure and process measures to include outcome measures. However, the development of outcome measures appropriate for the programs serving older and/or disabled patients has been somewhat limited. The development and subsequent implementation of outcome measures as part of the overall quality improvement program for CMS is crucial to ensuring that beneficiaries obtain high quality healthcare. In addition, process of care measures are needed that focus on the care needs of Medicare beneficiaries, such as factors affecting continuity of care and transitions.

This request is for data collection to test the use of new tools available to CMS to measure care pertinent to vulnerable beneficiaries where quality of care provided by Medicare Advantage Organizations (MAOs) should be closely monitored. The measures to be evaluated and developed upon approval of this request relate to (1) Continuity of information and care from hospital discharge to the outpatient setting, (2) continuity between mental health provider and primary care provider (PCP), and (3) items that may be added to the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey addressing language-centered care, cultural competence, physical activity, healthy eating, and caregiver strain. *Form Number:* CMS–10451 (OCN: 0938-New); *Frequency:* Yearly, occasionally; *Affected Public:* Individuals or Households, Private sector—Business or other for-profits; *Number of Respondents:* 2,012; *Total Annual Responses:* 2,360; *Total Annual Hours:* 4,630. (For policy questions regarding this collection contact Susan Radke at 410–786–4450. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by December 26, 2012:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____ Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 23, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–26380 Filed 10–25–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration For Children And Families

[CFDA Number: 93.605]

Announcement of the Award of a Noncompetitive Single Source Replacement Grant to the Larimer County (CO) Department of Human Services in Fort Collins, CO

AGENCY: Children's Bureau, ACF, HHS.

ACTION: Announcement of the award of a noncompetitive single source replacement grant to the Larimer County (CO) Department of Human Services in Fort Collins, CO.

SUMMARY: The Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau (CB) awarded a 36-month demonstration grant to the American Humane Association (AHA) on September 29, 2011. On April 27, 2012, AHA submitted a letter requesting a relinquishment, effective June 30, 2012. The Larimer County Department of Human Services, an eligible organization, submitted its letter, along with its grant application, requesting approval to complete all of the remaining grant activities from July 1, 2012, through September 29, 2014. The Larimer County Department of Human Services will continue to provide all program activities. No changes to the grant activities will occur. All existing key personnel for the grant will remain to ensure continuity in accomplishing all of the program activities, as described in the original proposal. For the remainder of the project period listed below, this organization has been awarded funds in the amount of $1,189,750 as the permanent replacement grantee.

DATES: July 1, 2012, through September 29, 2014.

FOR FURTHER INFORMATION CONTACT: Cathy Overbagh, Child Welfare Program Specialist, Division of Program Innovation, Children's Bureau, 1250 Maryland Avenue SW., Washington, DC 20024. Telephone: 202–205–7273; Email: *cathy.overbagh@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Family Connection Grant Program was

established for the purpose of helping children who are in, or at risk of entering, foster care reconnect with family members through the implementation of programs of kinship navigator programs, programs using intensive family finding efforts, programs using family group decision-making meetings, and residential family treatment programs. In September 2011, the Children's Bureau awarded a cluster of 36-month demonstration grants, including the grant relinquished by AHA, to focus on using family group decision-making meetings to build protective factors for children and families.

Statutory Authority: Section 427 of the Social Security Act (42 U.S.C. Sections 620–629) as amended by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. 110–351, Section 102(a)).

Bryan Samuels,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 2012–26349 Filed 10–25–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1984.

HRSA requests comments on: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Request Title: Drug Pricing Program Reporting Requirements (OMB No. 0915–0176)—[Extension]

Abstract: Section 602 of Public Law 102–585, the Veterans Health Care Act of 1992, enacted section 340B of the Public Health Service Act (PHS Act), ''Limitation on Prices of Drugs Purchased by Covered Entities.'' Section 340B provides that a manufacturer who participates in Medicaid must sign a Pharmaceutical Pricing Agreement with the Secretary of Health and Human Services in which the manufacturer agrees to charge enrolled covered entities a price for covered outpatient drugs that will not exceed an amount determined under a statutory formula. Covered entities which choose to participate in the section 340B Drug Pricing Program must comply with the requirements of 340B(a)(5) of the PHS Act. Section 340B(a)(5)(A) prohibits a covered entity from accepting a discount for a drug that would also generate a Medicaid rebate. Further, section 340B(a)(5)(B) prohibits a covered entity from reselling or otherwise transferring a discounted drug to a person who is not a patient of the entity.

In response to the statutory mandate of section 340B(a)(5)(C) to permit the Secretary or manufacturers to conduct audits of covered entities and because of the potential for disputes involving covered entities and participating drug manufacturers, the HRSA Office of Pharmacy Affairs (OPA) developed a dispute resolution process for manufacturers and covered entities, as well as manufacturer guidelines for audit of covered entities (Federal Register Final Notice, December 12, 1996 (Vol. 61, No. 240, pp. 65406–65413)).

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

The annual estimate of burden is as follows:

Reporting/notification requirement	Number of respondents	Responses per respondent	Total responses	Hours/ response	Total burden hours
AUDITS					
Audit Notification to Entity [1]	10	1	10	4	40
Audit Workplan [1]	8	1	8	8	64
Audit Report [1]	6	1	6	8	48
Entity Response	6	1	6	8	48
DISPUTE RESOLUTION					
Mediation Request	10	4	40	10	400
Rebuttal	10	1	10	16	160
Total	50		80		760

[1] Prepared by the manufacturer.

Recordkeeping Burden:

Recordkeeping requirement	Number of recordkeepers	Hours of recordkeeping	Total burden
Dispute Records	50	0.5	25

Addresses: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Deadline: Comments on this Information Collection Request must be received within 60 days of this notice.

Dated: October 22, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–26354 Filed 10–25–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0063]

President's National Security Telecommunications Advisory Committee

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management; Notice of an Open Federal Advisory Committee Teleconference.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will meet on Monday, November 5, 2012, via a conference call. The meeting will be open to the public.

DATES: The NSTAC will meet Monday, November 5, 2012, from 2:00 p.m. to 3:15 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held via a conference call. For access to the conference bridge, contact Ms. Deirdre Gallop-Anderson by email at *deirdre.gallop-anderson@hq.dhs.gov* by 5:00 p.m. October 29, 2012.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Documents associated with the issues to be discussed during the conference will be available at *www.ncs.gov/nstac* for review by October 30, 2012. Written comments must be received by the NSTAC Designated Federal Officer no later than November 19, 2012, and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: NSTAC@hq.dhs.gov.* Include the docket number in the subject line of the email message.
- *Fax:* (703) 235–4981.
- *Mail:* Alternate Designated Federal Officer, National Communications System, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, Mail Stop 0615, Arlington, VA 20598–0615.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket, including all documents and comments received by the NSTAC, go to *www.regulations.gov.*

A public comment period will be held during the meeting on November 5, 2012, from 2:15 p.m. to 2:35 p.m. Speakers who wish to participate in the public comment period must register in advance no later than October 29, 2012, at 5:00 p.m. by emailing Deirdre Gallop-Anderson at *deirdre.gallop-anderson@hq.dhs.gov.* Speakers are requested to limit their comments to three minutes and will speak in order of registration as time permits. Please note that the public comment period may end before the time indicated, following the last call for comments.

FOR FURTHER INFORMATION CONTACT: Allen F. Woodhouse, NSTAC Alternate Designated Federal Officer, Department of Homeland Security, telephone (703) 235–4900.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463). The NSTAC advises the President on matters related to national security and emergency preparedness (NS/EP) telecommunications policy.

Agenda: The NSTAC members will receive an update on progress made to date by the Nationwide Public Safety Broadband Network (NPSBN) Subcommittee as well as an update regarding the work of the Secure Government Communications Subcommittee. The committee is not taking any action on the work of these subcommittees at this meeting. The NPSBN Subcommittee is currently examining any NS/EP policy that should be considered when facilitating priority access across a diverse community of potential users of the Nationwide Public Safety Broadband Network, particularly during NS/EP events. Additionally, they are reviewing policy changes that could possibly encourage the innovative evolution of NS/EP functions by or through the NPSBN. The Secure Government Communications Scoping Subcommittee is charged with examining how commercial-off-the-shelf technologies and private sector best practices can be used to secure unclassified communications between and among Federal civilian departments and agencies.

Additionally, NSTAC members will discuss and vote on their Executive Letter to the President regarding their review of the Department of Homeland Security's (DHS) National Cybersecurity and Communications Integration Center (NCCIC). This review was conducted June 2012—September 2012 and will provide the President with an assessment of whether the NCCIC has developed in ways consistent with previous NSTAC recommendations.

The FACA requires that notices of meetings of advisory committees be announced in the **Federal Register** 15 days prior to the meeting date. A notice of the meeting of the NSTAC is being published in the **Federal Register** with less than 15 days notice due to an effort to assure the accuracy and validity of the NSTAC meeting agenda and contents. NSTAC changes in leadership and stakeholder approval of the NSTAC meeting discussion points created a longer than usual adjudication process. Although the meeting notice was published in the **Federal Register** late, the agenda will be published on the NCS Web site: *www.ncs.gov* and an email will be sent out to the NSTAC Members.

Dated: October 19, 2012.

Allen F. Woodhouse,

Alternate Designated Federal Officer for the NSTAC.

[FR Doc. 2012–26325 Filed 10–25–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0064]

Homeland Security Advisory Council; Open Teleconference Meeting

AGENCY: Office of Policy, Department of Homeland Security.

ACTION: Notice of Correction of the Notice of Federal Advisory Committee Meeting for: Notice of Open Teleconference Federal Advisory Committee Meeting.

SUMMARY: This notice corrects the date of the teleconference meeting of the Homeland Security Advisory Council (HSAC) that was published in the October 22, 2012, **Federal Register** at FR 77 64532. The date was incorrectly listed as Thursday, November 8, 2012. The correct date of the meeting is Wednesday, November, 7, 2012, and the time of the teleconference remains 4:00 p.m. to 5:00 p.m. EST.

FOR FURTHER INFORMATION CONTACT: William Smith, Director, *hsac@dhs.gov* or 202–282–9445.

SUPPLEMENTARY INFORMATION: Notice of correction of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended, 5 U.S.C. App.

As stated in the notice published on October 22, 2012, members of the public must contact a staff member of the HSAC to obtain the call-in teleconference number, and they will be advised at that time of the correct date of the teleconference.

Becca Sharp,

Executive Director, Homeland Security Advisory Council, DHS.

[FR Doc. 2012–26327 Filed 10–25–12; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2002–11334]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Aviation Security Infrastructure Fee Records Retention

AGENCY: Transportation Security Administration, DHS.

ACTION: 60 day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0018, abstracted below that we will submit to the OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The information collection would require the retention of certain information necessary for TSA to help set the Aviation Security Infrastructure Fee (ASIF), including information about air carriers' and foreign air carriers' costs related to screening passengers and property in calendar year 2000.

DATES: Send your comments by December 26, 2012.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6040.

FOR FURTHER INFORMATION CONTACT: Susan Perkins at the above address, or by telephone (571) 227–3398.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (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 valid OMB control number. The ICR documentation is available at *www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0018; Aviation Security Infrastructure Fee Records Retention, 49 CFR part 1511. To help defray TSA's costs of providing civil aviation security services, and as authorized by 49 U.S.C. 44940, TSA published in the **Federal Register** on February 20, 2002, an interim final rule which imposed a fee known as the Aviation Security Infrastructure Fee (ASIF) on certain air carriers and foreign air carriers.[1] The amount of ASIF collected by TSA from the carriers, both overall and per carrier, is based upon the carriers' aggregate and individual costs, respectively, for screening passengers and property in calendar year 2000.[2]

In conjunction with the issuance of 49 CFR part 1511 (ASIF regulations), TSA requested OMB approval to collect information necessary for TSA to establish the ASIF, including information about the carriers' individual and aggregate costs related to screening passengers and property in calendar year 2000. This information collection included submissions to TSA of data on the carriers' screening-related costs and also of independent audits of that data. This information collection is currently approved under OMB number 1652–0018.

Purpose of Information Collection

The information collection proposed under this notice is intended to apply to the retention requirement of the ASIF regulations. Under the ASIF regulations, carriers must retain any and all documents, records, or information related to the amount of the ASIF, including all information applicable to the carrier's calendar year 2000 security costs and information reasonably necessary to complete an audit.[3] This requirement includes retaining the source information for the calendar year 2000 screening costs reported to TSA; the calculations and allocations performed to assign costs submitted to TSA; information and documents reviewed and prepared for the required independent audit; the accountant's working papers, notes, worksheets, and other relevant documentation used in the audit; and, if applicable, the specific information leading to the accountant's opinion, including any determination that the accountant could not provide an audit opinion.

Description of Information Collection

The information collection, submission, and retention requirement applies to each air carrier and foreign air carrier that incurred costs for the screening of passengers and property in calendar year 2000. As this is an ongoing record retention requirement and no new air carriers and foreign air carriers are subject to the requirements

[1] See 67 FR 7926, as codified at 49 CFR part 1511.

[2] 49 U.S.C. 44940(a)(2)(B)(i), (ii).

[3] See 49 CFR 1511.9.

of current 49 CFR part 1511, the burden estimates do not anticipate any start-up costs or changes over subsequent years. It is estimated that the 185 respondent air carriers and foreign air carriers will each on average incur $104.60 annually, which includes $54.60 in records storage and $50 in labor costs for 2 hours of records management at $25 per hour. Thus, the annual average burden related to this requirement for all respondents is $19,351. The subject records may be used by TSA to make determinations regarding security-related costs in calendar year 2000, including conducting reviews and otherwise ensuring compliance with 49 CFR part 1511.

Issued in Arlington, Virginia, on October 23, 2012.

Susan Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2012–26433 Filed 10–25–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Air Cargo Advance Screening (ACAS) Pilot Program

Correction

In notice document 2012–26031 appearing on pages 65006–65009 in the issue of October 24, 2012 make the following correction:

On page 65007, in the first column, under the **ADDRESSES** heading, in the fourth line, ''CBPCCS@cbpdhs.gov'' should read ''CBPCCS@cbp.dhs.gov''.

[FR Doc. C1–2012–26031 Filed 10–24–12; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–78]

Notice of Submission of Proposed Information Collection to OMB: Section 8 Contract Renewal Policy—Guidance for the Renewal of Project-Based Section 8 Contracts

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 Section 8 Renewal Policy Guide implements Section 524 of the Multifamily Housing Reform and Affordability Act of 1997 (MAHRA) (Pub. L. 105–65, enacted on October 27, 1997), which governs how expiring Section 8 project-based assistance contracts are renewed. The Section 8 contract renewal process is an essential component to preserving low income rental housing affordability and availability, while reducing long-term costs of project-based assistance. Project-based assistance contracts are renewed under MAHRA to protect tenants and preserve affordable housing for low and very low-income tenants. The Section 8 contract renewal process will provide housing protection for the low and very low-income tenants living in various United States communities. The Section 8 Renewal Policy Guide sets forth six renewal options from which a project owner may choose when renewing their expiring Section 8 contract: Option One—Mark-Up-To-Market; Option Two—Other Contract Renewal with Current Rents at or Below Comparable Market Rents; Option Three—Referral to the Office of Affordable Preservation (OAHP); Option Four—Renewal of Projects Exempted From OAHP; Option Five—Renewal of Portfolio Reengineering Demonstration or Preservation Projects; Option Six—Opt Outs. Owners should select one of six options which are applicable to their project and should submit contract renewal on an annual basis to renew Contract.

DATES: *Comments Due Date:* November 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 (2502–0587) 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 Proposed: Section 8 Contract Renewal Policy—Guidance for the Renewal of Project-Based Section 8 Contracts.

OMB Approval Number: 2502–0587.

Form Numbers: HUD–9649, HUD–9626, HUD–9648D, HUD–9628, HUD–9628–C, HUD–9630, HUD–9632, HUD–9633, HUD–9634, HUD–9645, HUD–9646, HUD–9625, HUD–9627, HUD–9636, HUD–9637, HUD–9643, HUD–9641, HUD–9648C, HUD–9648–B, HUD–9647, HUD–9648–A, HUD–9640, HUD–9639, HUD–9635, HUD–9638, HUD–9624, HUD–9624A, HUD–9631, HUD–9642, HUD–9628–A, HUD–9628B, HUD–9644, HUD–9625, HUD–9628–D, HUD–9629, HUD–9651.

Description of the need for the information and proposed use: The Section 8 Renewal Policy Guide implements Section 524 of the Multifamily Housing Reform and Affordability Act of 1997 (MAHRA) (public law 105–65, enacted on October 27, 1997), which governs how expiring Section 8 project-based assistance contracts are renewed. The Section 8 contract renewal process is an essential component to preserving low income rental housing affordability and availability, while reducing long-term costs of project-based assistance. Project-based assistance contracts are renewed under MAHRA to protect tenants and preserve affordable housing for low and very low-income tenants. The Section 8 contract renewal process will provide housing protection for the low and very low-income tenants living in various United States communities. The Section 8 Renewal Policy Guide

sets forth six renewal options from which a project owner may choose when renewing their expiring Section 8 contract: Option One—Mark-Up-To-Market; Option Two—Other Contract Renewal with Current Rents at or Below Comparable Market Rents; Option Three—Referral to the Office of Affordable Preservation (OAHP); Option Four—Renewal of Projects Exempted From OAHP; Option Five—Renewal of Portfolio Reengineering Demonstration or Preservation Projects; Option Six—Opt Outs. Owners should select one of six options which are applicable to their project and should submit contract renewal on an annual basis to renew Contract.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden	25,324	1		0.971	24,603

Total estimated burden hours: 24,603.

Status: Extension without change of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 23, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–26391 Filed 10–25–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5603–N–77]

Notice of Submission of Proposed Information Collection to OMB: Home Mortgage Disclosure Act (HMDA) Loan/Application Register

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 HMDA Loan/Application Register collects information from mortgage lenders on application for, and originations and purchases of, mortgage and home improvement loans. Nondepository mortgage lending institutions are required to use the information generated as a running log throughout the calendar year, and send the information to HUD by March 1 of the following calendar year.

DATES: *Comments Due Date:* November 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 (2502–0539) 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 Proposed: Home Mortgage Disclosure Act (HMDA) Loan/Application Register.

OMB Approval Number: 2502–0539.

Form Numbers: None.

Description of the need for the information and proposed use: The HMDA Loan/Application Register collects information from mortgage lenders on application for, and originations and purchases of, mortgage and home improvement loans.

Nondepository mortgage lending institutions are required to use the information generated as a running log throughout the calendar year, and send the information to HUD by March 1 of the following calendar year.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting burden	1,100	1		152.72	168,000

Total estimated burden hours: 168,000.

Status: Extension without change of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 23, 2012.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2012–26388 Filed 10–25–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–42]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, Room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Air Force:* Mr. Robert Moore, Air Force Real Property Agency, 143 Billy Mitchell Blvd., San Antonio, TX 78226, (210) 925–3047; *GSA:* Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202) 501–0084; *Interior:* Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, 1801 Pennsylvania Ave. NW., 4th Floor, Washington, DC 20006: 202–254–5522; *Navy:* Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374 (This is not toll-free numbers).

Dated: October 18, 2012.

Ann Marie Oliva,

Deputy Assistant Secretary for Special Needs (Acting).

Title V, Federal Surplus Property Program Federal Register Report for 10/26/2012

Suitable/Available Properties

Building

Alabama

Tract 101–02; Trailer
1616 Chappie James Ave.
Tuskegee AL 36083
Landholding Agency: Interior
Property Number: 61201240008
Status: Unutilized
Comments: Off-site removal only; 2,500 sf.; office; 12 mons. vacant; mold/fungus; severe water damage; deteriorating roof; secured area; contact Interior for info. on accessibility/removal

Arkansas

Silver Hill Rock House
Buffalo Nat'l River
St. Joe AR 72875
Landholding Agency: Interior
Property Number: 61201240010
Status: Excess
Directions: Tract 06–126–1
Comments: Off-site removal only; 872 sf.; residential; 6 yrs. vacant; severe termite damage; removal may be extremely difficult due to the unsound structure

Iowa

NRCS–USDA Unit
1820 E. Euclid Ave.
Des Moines IA 50313
Landholding Agency: GSA
Property Number: 54201240004
Status: Excess
GSA Number: 7–A–IA–0511–AA
Directions: Includes two Bldgs.; masonry 2,048 sf. +/-, frame 5,513 sf. +/-
Comments: Bldgs. sits on .83 acres; fair conditions; equipment & material storage; driveway access easement w/adjacent property owner

Missouri

Crane Radio Station
Elm Street Rd.
Marionville MO 65633
Landholding Agency: GSA
Property Number: 54201240003
Status: Excess
GSA Number: 7–B–MO–0698
Comments: 213 sf.; sits on 4.65 acres; storage

North Carolina

Tract 29666
209 Water Plant Rd.
Ocracoke NC 27960
Landholding Agency: Interior
Property Number: 61201240001
Status: Unutilized
Directions: Cape Hatteras Nat'l Seashore
Comments: Off-site removal only; 1180 sf.; 12 mons. vacant; residential; extensive mold; holes in interior/exterior; rodent infested; leaky roof; secured area; contact Interior for info. on accessibility/removal
Tract 29665
199 Water Plant Rd.
Ocracoke NC 27960
Landholding Agency: Interior
Property Number: 61201240002
Status: Unutilized
Comments: Off-site removal; 1180 sf.; 12 mons. vacant; residential; extensive mold; holes in interior/exterior; rodent infested; leaky roof; secured area; contact Interior for info. on accessibility/removal
Tract 29664
189 Water Plant Rd.
Ocracoke NC 27960
Landholding Agency: Interior
Property Number: 61201240003
Status: Unutilized
Directions: Cape Hatteras Nat'l Seashore
Comments: Off-site removal only; 1180 sf.; 12 mons. vacant; residential; extensive mold; holes in interior/exterior; rodent infested; leaky roof; secured area; contact Interior for info. on accessibility/removal
Tract 29960
221 Water Plant Rd.
Ocracoke NC 27960
Landholding Agency: Interior
Property Number: 61201240004
Status: Unutilized
Directions: Cape Hatteras Nat'l Seashore
Comments: Off-site removal only; 1180 sf.; 12 mons. vacant; residential; extensive mold; holes in interior/exterior; rodent infested; leaky roof; secured area; contact Interior for info. on accessibility/removal
Tract 28757
46500 Light House Rd.
Buxton NC 27960
Landholding Agency: Interior
Property Number: 61201240005
Status: Unutilized
Directions: Cape Hatteras Nat'l Seashore
Comments: Off-site removal only; 741 sf.; storage; 120 mons. vacant; mold damage; holes in interior/exterior; rodent infested; leaky roof; secured area; contact Interior for info. on accessibility/removal
Tract 59930
214 Dare Ave.
Manteo NC 27954
Landholding Agency: Interior
Property Number: 61201240006
Status: Unutilized
Comments: Off-site removal only; 1161 sf.; residential; 12 mons. vacant; mold damage; holes in interior/exterior; rodent infested; leaky roof; erosion; secured area; contact Interior for info. on accessibility/removal
Tract 59929
216 Dare Ave.
Manteo NC 27954
Landholding Agency: Interior
Property Number: 61201240007
Status: Unutilized
Comments: Off-site removal only; 839 sf.; residential; 24 mons. vacant; mold damage; holes in interior/exterior; rodent infested; leaky roof; secured area; contact Interior for info. on accessibility/removal

Oklahoma

Lamar Radio Station
S. of County Rd.
Lamar OK 74850
Landholding Agency: GSA
Property Number: 54201240002
Status: Excess
GSA Number: 7–B–OK–0581
Comments: 152 sf.; sits on 4.65 acres; storage

Pennsylvania

Tract 101–30
4501 County Line Rd.
King of Prussia PA 19406
Landholding Agency: Interior
Property Number: 61201240009
Status: Excess
Comments: Off-site removal only; 500 sf.; 7yrs. vacant; extensive deterioration; hillside is used as stabilization; removal may be extremely difficult- may destroy property

Texas

6 Bldgs.
901 South Glenbrook
Garland TX 75040
Landholding Agency: Air Force
Property Number: 18201240001
Status: Unutilized
Directions: 1,3,4,5,7&8
Comments: Off-site removal only; 42,501 sf.; office & shop; 24 mons. vacant; repairs needed; contamination; needs remediation; secured area; contact AF for info. on accessibility/removal
Veterans Post Office
1300 Mutamoros St.
Laredo TX 78040
Landholding Agency: GSA
Property Number: 54201240001
Status: Excess
GSA Number: 7–G–TX–1055–AA
Comments: 8,498 sf.; sits on 1.2 acres; office; 105 yrs-old; historic preservation restrictions on bldg. & ground

Unsuitable Properties

Building

California

Facilities 01085 & 01086
1 Admin. Circle
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77201240002
Status: Unutilized
Comments: Located w/in secured boundary of a military installation; public access denied; no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Washington

Bldg. 7029
Snook Rd.—Bangor
Naval Base Kitsap WA
Landholding Agency: Navy
Property Number: 77201240001
Status: Excess
Comments: Located w/in secured area where public access is denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

[FR Doc. 2012–26066 Filed 10–25–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–2012–N220; FF08E00000–FXES11120800000–134]

Tehachapi Uplands Multiple Species Habitat Conservation Plan; Kern County, CA; Final Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a final Environmental Impact Statement (EIS), Tehachapi Uplands Multiple Species habitat Conservation Plan (TU MSHCP), and Implementing Agreement (IA), related to an application by Tejon Ranchcorp (Tejon or applicant) for an Incidental Take Permit (ITP or permit) pursuant to the Endangered Species Act (Act). The final documents reflect changes made to the 2011 Supplemental Draft EIS and TU MSHCP/IA resulting from comments received during the 90-day public comment period. Responses to comments from the 2011 comment period are included in the EIS. This notice provides an opportunity for the public to review the final documents and responses to comments. The proposed 50-year ITP would authorize incidental take of 27 species associated with plan-wide activities and limited development activities on portions of Tejon Ranch.

DATES: Written comments must be received by 5 p.m. Pacific Time, November 26, 2012.

ADDRESSES: *Obtaining Documents:* You may download copies of the EIS, TU MSHCP, and IA on the Internet at *http://www.fws.gov/ventura/.* Alternatively, you may use one of the methods below to request hard copies or a CD–ROM of the documents.

Submitting Comments: You may submit comments or requests for copies or more information by one of the following methods.

• *Email: fw8tumshcp@fws.gov.* Include ''Tehachapi Uplands MSHCP/EIS Comments'' in the subject line of the message.

• *U.S. Mail:* Roger Root, Assistant Field Supervisor, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

• *In-Person Drop-off, Viewing, or Pickup:* Call (805) 644–1766 to make an appointment during regular business hours at the above address.

• *Fax:* Roger Root, Assistant Field Supervisor, (805) 644–3958, Attn.: Tehachapi Uplands MSHCP/EIS Comments.

Hard bound copies of the EIS, TU MSHCP, and IA are available for viewing at the following locations:

1. U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

2. Kern County Library, Frazier Park Branch, 3732 Park Drive, Frazier Park, CA 93225.

FOR FURTHER INFORMATION CONTACT: David Simmons, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, at 805–644–1766.

SUPPLEMENTARY INFORMATION:

Introduction

We have received an application for an incidental take permit covering 27 listed and unlisted species that may be taken or otherwise affected by plan-wide activities and future low-density residential and commercial development activities on a portion of the Tejon Ranch (Ranch). The applicant has prepared the TU MSHCP to satisfy the requirements for a section 10(a)(1)(B) permit under the Act (16 U.S.C. 1531 *et seq.*). The permit is requested to authorize the incidental take of species that could potentially result from plan-wide activities occurring throughout the 141,886 acres of lands proposed to be covered by the permit (''covered lands''), and from approximately 5,533 acres of mountain resort and other development within and adjacent to the Interstate-5 corridor and Lebec community within the covered lands in Kern County, California. The TU MSHCP proposes a conservation strategy to minimize and mitigate to the maximum extent practicable the impacts of any incidental taking that could occur to covered species as the result of the covered activities.

Background

Section 9 of the Act and Federal regulations prohibit the ''take'' of wildlife species listed as endangered or threatened (16 U.S.C. 1538). The Act defines the term ''take'' as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the Act, the Service may issue permits to authorize ''incidental take'' of listed animal species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

Although take of listed plant species is not prohibited under the Act, and therefore cannot be authorized by an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them by a habitat conservation plan. All species included on an incidental take permit would receive assurances under the Service's ''No Surprises'' regulation [50 CFR 17.22(b)(5) and 17.32(b)(5)].

The applicant seeks a 50-year incidental take permit for covered activities within 141,886 acres of covered lands on Tejon Ranch in Kern County, California. Proposed covered activities include plan-wide activities, which consist of both ongoing activities that have historically occurred at the Ranch, such as grazing and film production, and new activities, including limited public access for passive recreational purposes. Up to 200 acres could be disturbed to facilitate plan-wide activities. Proposed covered activities also include planned future community development of approximately 5,533 acres within and adjacent to the Interstate-5 corridor in the Tejon Mountain Village Planning Area and the Lebec/Existing Headquarters Area. The permit would also cover take minimization, mitigation and conservation measures provided under the TU MSHCP and intended to minimize and mitigate the effect of take to the maximum extent practicable. The permit would not cover hunting or mineral extraction.

Species proposed for coverage in the TU MSHCP are species that are currently listed as federally threatened or endangered or have the potential to become listed during the term of the permit and have some likelihood to occur within the covered lands. Should any of the unlisted covered wildlife species become listed under the Act during the term of the permit, take authorization for those species would become effective upon listing. Twenty-one animal species and six plant species known to occur or having the potential to occur within the covered lands are proposed to be covered by the permit (Covered Species). The permit would include the following federally listed animal species: California condor (*Gymnogyps californianus*—federally listed as endangered and State listed as endangered and fully protected), least Bell's vireo (*Vireo bellii pusillus*—federally listed as endangered), southwestern willow flycatcher (*Empidonax traillii extimus*—federally listed as endangered), and Valley elderberry longhorn beetle (*Democerus californicus dimorphus*—federally listed as threatened). The permit would also include the following species currently unlisted under the Act: western yellow-billed cuckoo (*Coccyzus americanus occidentalis*– Federal candidate for listing); Tehachapi slender salamander (*Batrachoseps stebbinsi*), bald eagle (*Haliaeetus leucocephalus*), American peregrine falcon (*Falco peregrinus anatum*), little willow flycatcher (*Empidonax traillii brewsteri*), golden eagle (*Aquila chrysaetos*), white-tailed kite (*Elanus leucurus*), ringtail (*Bassariscus astutus*), tricolored blackbird (*Agelaius tricolor*), Tehachapi pocket mouse (*Perognathus alticola inexpectatus*), burrowing owl (*Athene cunicularia*), yellow-blotched salamander (*Ensatina eschscholtzii croceater*), western spadefoot (*Spea hammondii*), purple martin (*Progne subis*), yellow warbler (*Dendroica petechia brewsteri*), coast horned lizard (*Phrynosoma coronatum* (both *frontale* and *blainvillii* populations)), two-striped garter snake (*Thamnophis hammondii*), round-leaved filaree (*Erodium macrophyllum*), Fort Tejon woolly sunflower *(Eriophyllum lanatum* var. *hallii*), Kusche's sandwort (*Arenaria macradenia* var. *kuschei*), Tehachapi buckwheat (*Eriogonum callistum*), striped adobe lily (*Fritillaria striata*), and Tejon poppy (*Eschscholzia lemmonii* ssp. *kernensis*).

The TU MSHCP includes a conservation strategy intended to avoid,

minimize, and mitigate to the maximum extent practicable any impacts that would occur to covered species as the result of the covered activities. Under the TU MSHCP, and consistent with the Tejon Ranch Conservation and Land Use Agreement between Tejon and the Sierra Club, National Audubon Society, Natural Resources Defense Council, Endangered Habitats League, and Planning and Conservation League (Ranchwide Agreement), no land development would be allowed within approximately 93,522 acres of the covered lands that constitute the mitigation lands, including the approximately 37,100-acre Tunis and Winters ridge area. The Tunis and Winters ridge area is designated as the Condor Study Area under the TU MSHCP and is the area of the ranch most likely to be frequented by condors. An additional 23,001 acres would be preserved as mitigation lands within the open space within the Tejon Mountain Village Planning Area, resulting in the permanent conservation of approximately 82 percent of the covered lands. In addition to the TU MSHCP mitigation lands, approximately 12,795 acres of covered lands are subject to existing conservation easements acquired pursuant to the Ranchwide Agreement and are required to be managed in accordance with the TU MSHCP. In total, approximately 91 percent of the covered lands would be permanently conserved under the TU MSHCP and Ranchwide Agreement.

Upon initiation of construction of the Tejon Mountain Village development, the TU MSCHP requires that the TU MSHCP mitigation lands be permanently protected by phased recordation of conservation easements or equivalent legal restrictions over all such lands by the end of the permit term. The TU MSCHP also requires implementation of general and species-specific take avoidance, minimization, and mitigation measures to reduce potential impacts to the covered species. With regard to the California condor, the TU MSHCP requires the ongoing monitoring of covered activities by a qualified biologist to reduce the potential for any human/condor interactions and the permanent enforcement of covenants, conditions, and restrictions on residential development to minimize any impacts to condors. The TU MSHCP also provides funding for condor capture, care, and relocation in the unlikely event that a condor becomes habituated to human activities. No lethal take of condors would be authorized under the permit.

National Environmental Policy Act Compliance

The Service's proposed issuance of an incidental take permit is a Federal action and triggers the need for compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.). The Service has prepared an EIS that evaluates the impacts of proposed issuance of the permit and implementation of the TU MSHCP, and also evaluates the impacts of a reasonable range of alternatives. The Final EIS analyzes four alternatives in addition to the proposed TU MSHCP, summarized above. The Service has identified the proposed TU MSHCP as the preferred alternative. The proposed TU MSHCP alternative and the remaining four alternatives are summarized below.

The proposed TU MSHCP alternative, described above, generally remains the same as described in the 2011 Supplemental Draft EIS. It has been updated to reflect approved mitigation measures required by the county and the State; to reflect clarifications made to the covered species mitigation measures proposed in the applicant's revised TU MSHCP; to reflect information related to the final location of two communication towers; to clarify the number of hunting cabins allowed on covered lands; and to update various acreages associated with the revised TU MSHCP. Where appropriate, we added information and required mitigation measures associated with the TMV project approvals to the Supplemental Draft EIS.

The no-action alternative, for the purposes of analysis, remains the same as described in the 2011 Supplemental Draft EIS and assumes that the Ranchwide Agreement would remain in effect, that development of the TMV project and other future commercial or residential development allowed within the covered lands under the Ranchwide Agreement would not occur, and that existing ranch uses would continue at current levels into the future.

The condor-only HCP alternative generally remains the same as described in the 2011 Supplemental Draft EIS and continues to represent a species management approach that addresses only the California condor. Take of other federally listed species would be avoided under this alternative through project-specific review and approvals, and by siting development in a manner that avoids occurrences of the species. Development and open space preservation would be consistent with those elements described in the Proposed TU MSHCP Alternative. Plan-wide activities would also be the same as those described in the proposed TU MSHCP alternative, except that all management and mitigation elements would be limited to California condor-related measures as set forth in the proposed TU MSHCP alternative. Similarly, the conservation measures and adaptive management elements of the condor-only HCP alternative would be limited solely to those for the California condor set forth in the proposed TU MSHCP alternative.

The condor critical habitat (CCH) avoidance MSHCP alternative remains the same as described in the 2011 Supplemental Draft EIS. Plan-wide activities would continue and the proposed development areas avoid federally designed critical habitat for California condor. Under this alternative, no commercial or residential development would occur in any designated critical habitat for California condor. The TMV project would not occur, as that project would extend into California condor critical habitat. Instead, development would follow Kern County General Plan designations and would cluster most commercial and residential development in the southwestern portion of the covered lands, in the portion of the TMV planning area nearest to Interstate 5, and in other areas outside condor critical habitat. The CCH avoidance MSHCP alternative also assumes implementation of the Ranchwide Agreement, where development boundaries outside critical habitat conform to the development setbacks and general boundaries provided in that agreement.

The Kern County General Plan Buildout alternative remains the same as presented in the 2011 Supplemental Draft EIS. While the Ranchwide Agreement has resulted in the recordation of conservation easements on 12,795 acres of the covered lands (existing conservation easement areas), the remainder of the covered lands to be precluded from development under the Ranchwide Agreement do not currently have conservation easements recorded. As noted above, because the Ranchwide Agreement is a private agreement between parties, and Service is not a party to and has no contractual standing under the agreement, the agreement can be amended (or even terminated) by mutual agreement of the parties such that the land preservation outcome of the Ranchwide Agreement on covered lands may not be realized. While the Service considers remote the likelihood that the Ranchwide Agreement would be terminated, for purposes of comprehensive NEPA analysis, this

alternative does not assume continuation of the Ranchwide Agreement except for the permanent protection of the already-recorded conservation easements on the existing conservation easement lands.

Under the Kern County General Plan buildout alternative, development is assumed to proceed in accordance with the Kern County General Plan, including implementation of the TMV project (per the TMV project approvals). Development of the covered lands would require additional Kern County approval, and the EIS analysis assumes that development would proceed on a project-by-project basis and that the Service would issue incidental take authorization as appropriate through either section 7 of the Act or the section 10 process under the Act.

Public Involvement

We published a Notice of Intent (NOI) to prepare an EIS for a California Condor Habitat Conservation Plan (Condor HCP) in the **Federal Register** on June 25, 2004 (69 FR 35663). The NOI announced a 30-day public scoping period that ended on July 26, 2004. On March 26, 2008, a NOI to prepare an EIS for the TU MSHCP was published in the **Federal Register** (73 FR 16052). The NOI announced a 30-day public scoping period that ended on April 25, 2008. We published a revised notice of intent (NOI) to prepare an EIS for this project in the **Federal Register** on June 4, 2008 (73 FR 31876); this NOI clarified the proposed action and corrected a posting error in the March 2008 NOI. On February 4, 2009, we published a notice of availability of the Draft Plan, EIS, and IA in the **Federal Register** (74 FR 6050). The Draft documents were initially available for a 90-day public comment period, which was extended, with a Notice of a 60-day Extension issued on May 5, 2009. On February 3, 2012, we published a notice of availability of the Supplemental Draft EIS, Plan and IA in the **Federal Register** (77 FR 5564). The Supplemental Draft documents were available for a 90-day public comment period, which concluded on May 3, 2012.

Public Review

Copies of the Final EIS, TU MSHCP, and IA are available for review (see **ADDRESSES**). Any comments we receive will become part of the administrative record and will be available to the public. 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. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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.

Decision

We will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the Act. A permit decision will be made no sooner than 30 days after the publication of the Environmental Protection Agency's notice of the EIS in the **Federal Register** and completion of a Record of Decision.

This notice is provided pursuant to section 10(a) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: October 16, 2012.

Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2012–26169 Filed 10–25–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ910000.L13400000.DT0000. LXSS058A0000]

Notice of Availability of the Final Environmental Impact Statement for the Restoration Design Energy Project and Proposed Resource Management Plan Amendments, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the Council on Environmental Quality and the Department of the Interior (DOI) regulations implementing NEPA, and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Arizona State Office has prepared Proposed Resource Management Plan (RMP) Amendments and a Final Environmental Impact Statement (EIS) for the Restoration Design Energy Project (RDEP) and by this notice is announcing its availability.

DATES: The BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Proposed RMP Amendments/Final EIS. A person who meets the conditions and wishes to file a protest must file the protest within 30 days of the date that the Environmental Protection Agency publishes its Notice of Availability (NOA) in the **Federal Register**.

ADDRESSES: Copies of the RDEP Proposed RMP Amendments/Final EIS have been sent to affected Federal, State, and local government agencies; tribes; and other stakeholders. Copies of the Proposed RMP Amendments/Final EIS are available for public inspection at the BLM Arizona State Office, One North Central Avenue, Suite 800, Phoenix, AZ 85004. The Proposed RMP Amendments/Final EIS can also be downloaded from the project's Web site at *http://www.blm.gov/az/st/en/prog/energy/arra_solar.htm*. All protests must be in writing and mailed to one of the following addresses:

Regular Mail: BLM Director (WO210), Attention: Brenda Williams, P.O. Box 71383, Washington, DC 20024–1383

Overnight Mail: BLM Director (WO210), Attention: Brenda Williams, 20 M Street SE., Room 2134 LM, Washington, DC 20003

Publication of the Proposed RMP Amendments/Final EIS NOA does not trigger a formal public comment period. The BLM, however, may choose to review any comments submitted following the publication of the Proposed RMP Amendments/Final EIS NOA and use the comments to inform the records of decision (RODs). Individuals should note that the BLM will consider such comments only to the extent practicable and will not respond to comments individually. Comments may be submitted by the following methods:

Email: az_arra_rdep@blm.gov,

Fax: Attn: Lane Cowger, 602–417–9452;

Mail or other delivery service: BLM Arizona State Office, Attention: Restoration Design Energy Project, One North Central Avenue, Suite 800, Phoenix, AZ 85004–4427.

FOR FURTHER INFORMATION CONTACT: Kathy Pedrick, BLM Project Manager; telephone: 602–417–9235; mail: One North Central Avenue, Suite 800, Phoenix, AZ 85004–4427; or email: *az_arra_rdep@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a

day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The RDEP supports the Secretary of the Interior's goals to build America's new energy future and to protect and restore treasured landscapes. The purpose of the RDEP is to conduct statewide planning that fosters environmentally responsible production of renewable energy and allows the permitting of future renewable energy development projects to proceed in a more efficient and standardized manner. The RDEP would amend BLM land use plans to identify lands across Arizona that are most suitable for renewable energy development, including solar and wind energy technologies, and to establish a baseline set of environmental protection measures for such projects. The BLM is proposing to identify Renewable Energy Development Areas (REDAs), which are BLM-administered lands that are suitable for the development of solar and wind energy facilities. It is also proposing to establish one new Solar Energy Zone (SEZ) with a priority for utility-scale (greater than 20 megawatts) solar energy development. This new proposed SEZ is in addition to two existing SEZs identified in the October 12, 2012, ROD for the Solar Energy Programmatic Final EIS.

The proposed REDAs and proposed new SEZ for Arizona include disturbed sites and lands with low resource sensitivity and few environmental conflicts. Additionally, the BLM proposes to establish unified management actions, design features, and best management practices applicable to renewable energy development on BLM-administered lands in Arizona.

The REDAs would identify where renewable energy development is likely to be compatible with resource objectives and would be suitable for the development of utility- or distributed-scale solar and wind energy facilities. The SEZ would be prioritized for utility-scale solar energy development.

The Final EIS evaluates six action alternatives and the No Action Alternative. Alternative 1 identifies approximately 298,400 acres of potential REDAs on BLM-administered land that are disturbed sites or lands with low resource sensitivity. Alternative 1 seeks to provide maximum flexibility for locating small- to large-scale projects without consideration of other physical constraints, such as distance to transmission or load. Alternative 2 seeks to reduce environmental impacts by only including the potential REDAs identified in Alternative 1 that are within 5 miles of designated utility corridors and existing or approved transmission lines. Under Alternative 2, approximately 213,500 acres of BLM-administered lands would be identified as REDAs. Alternative 3 seeks to reduce disturbance and environmental impacts by identifying approximately 106,800 acres of potential REDAs that are near the point of demand, such as cities, towns, or industrial centers. Alternative 4 seeks to address potential water issues by instituting specific design features for 298,400 acres of potential REDAs to avoid impacts on sensitive watersheds, groundwater supply, and water quality. Alternative 5 focuses on opportunities to facilitate renewable energy development through land tenure adjustments by identifying about 25,500 acres of potential REDAs on BLM-administered lands identified as suitable for disposal through prior planning processes. Alternative 6 was developed through a collaborative process among the BLM, cooperating agencies, tribes, collaborating partners, stakeholders, and the public. Alternative 6 identifies about 222,800 acres of potential REDAs within 5 miles of designated utility corridors and existing transmission lines or near a point of demand, includes design features to protect water resources, and provides for land tenure adjustment of lands previously identified for disposal.

The BLM is also proposing to identify the Agua Caliente SEZ to facilitate the development of utility-scale solar energy projects. The proposed SEZ was developed based on a screening process that included the following criteria: Available large contiguous parcels of BLM land (greater than 2,500 acres); proximity to transmission; limited known environmental or cultural constraints; proximity to roads and infrastructure; and proximity to existing solar energy developments. Based on input from cooperating agencies, tribes, and the public, the Final EIS analyzes four footprints for the proposed Agua Caliente SEZ: 2,550 acres, 2,760 acres, 6,770 acres, and 20,600 acres. The agency's preferred alternative is Alternative 6, with 222,800 acres of REDA and a 2,550-acre SEZ.

The BLM proposes to amend the following BLM RMPs: Bradshaw-Harquahala RMP (2010); Arizona Strip Field Office RMP (2008); Kingman Resource Area RMP (1995); Lake Havasu Field Office RMP (2007); Lower Sonoran RMP (2012); Phoenix RMP (1988); Safford District RMP (1991); and Yuma Field Office RMP (2010). Additionally, the BLM would amend the Yuma Field Office RMP through a separate ROD to identify the Agua Caliente SEZ, identify SEZ-specific design features, change the Visual Resource Management (VRM) class from VRM Class III to VRM Class IV for lands within the 2,550-acre proposed SEZ, and remove the Special Recreation Management Area designation and Wildlife Habitat Management Area allocations from within the SEZ.

This EIS provides the necessary analysis to support the amendment of land use plans. This EIS will not eliminate the need for site-specific environmental review for future renewable energy development proposals. The BLM will make decisions on a case-by-case basis whether to authorize specific renewable energy development projects. Applications for proposed solar and wind energy development projects are processed as right-of-way (ROW) authorizations under Title V of FLPMA and 43 CFR part 2800. The processing of solar and wind energy development ROW applications must comply with the BLM's planning, environmental, and ROW regulatory requirements. When the BLM considers an application, the BLM decision-maker must determine if the proposal would conform to the applicable land use plan (43 CFR, 1610.5–3, 516 DM 11.5) and what level or type of environmental documentation is required. Analysis of proposed solar and wind energy development projects must comply with NEPA and Council on Environmental Quality and DOI NEPA regulations (40 CFR parts 1500–1508; 43 CFR part 46). The public would have opportunities to participate and comment during the NEPA process. The BLM would retain the discretion to deny solar and wind energy ROW applications based on site-specific issues and concerns, even in an area identified as a REDA, a SEZ, or otherwise available for application in the existing land use plan. The BLM would still consider renewable energy development proposals outside of a REDA or SEZ on a case-by-case basis using applicable state and national policy direction and guidance from existing land use plan decisions.

The Final EIS analyzes impacts of the alternatives on land use authorizations; military airspace; air quality; minerals/geology and soils; farm lands (prime or unique); water quality and quantity; floodplains, wetlands, and riparian zones; vegetation (including invasive, nonnative species); wildlife; migratory birds; BLM-designated sensitive animal and plant species; cultural resources; Native American religious concerns;

paleontological resources; visual resources; livestock grazing; recreation; special designations (including areas of critical environmental concern and wilderness); lands with wilderness characteristics; national scenic and historic trails; noise; public health and safety and fire management; hazardous or solid waste; social and economic values; and environmental justice.

Throughout development of the RDEP, the BLM has engaged 10 cooperating agencies, State and local governments, tribes, the Arizona Resource Advisory Council, and other stakeholders in order to obtain input on defining the REDAs and general information on the desired renewable energy footprint in Arizona.

On February 17, 2012, the BLM published a Draft EIS for the Restoration Design Energy Project and Draft RMP Amendments (77 FR 9694). Public comments were accepted through May 16, 2012. More than 3,300 comments were received. The public, as well as some cooperating agencies, offered suggestions on how the BLM could improve the proposed footprint of the Agua Caliente SEZ, refine the screening process for the REDAs, and conduct additional analysis on the conditions of the disturbed sites. All comments were considered and incorporated as appropriate into the Proposed RMP Amendments and Final EIS. Public comments resulted in the addition of a new Agua Caliente SEZ footprint and refined boundaries for proposed REDAs.

Instructions for filing a protest with the Director of the BLM regarding the Final EIS may be found in the ''Dear Reader'' letter of the Final EIS for the Restoration Design Energy Project and at 43 CFR 1610.5–2. Email and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the email or faxed protest as an advance copy, and the protest will receive full consideration. If you wish to provide the BLM with such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at 202–245–0028 and emails to *bhudgens@blm.gov*.

All protests, including the follow-up letter to emails or faxes, must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section above.

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

Authority: 40 CFR 1503.1, 1506.6, 1506.10, and 43 CFR 1610.2.

Deborah Stevens,

Acting State Director.

[FR Doc. 2012–26350 Filed 10–25–12; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[IDI–14985]

Public Land Order No. 7804; Partial Revocation of a Secretarial Order Dated December 4, 1909; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a withdrawal created by a Secretarial Order insofar as it affects 78.69 acres of National Forest System land withdrawn on behalf of the Bureau of Reclamation for the Payette Boise Reclamation Project within the Boise National Forest. This order also opens the land to disposition under the Small Tracts Act.

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

FOR FURTHER INFORMATION CONTACT: Laura Underhill, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3866, or Mike Coffey, USDA Forest Service, Region 4, 1918 W. Commerce Ave., Boise, Idaho 83709, 208–384–3288. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to reach either the Bureau of Land Management or U.S. Forest Service contacts during normal business hours. 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 Bureau of Reclamation has determined that a portion of the withdrawal created by a Secretarial Order dated December 4, 1909, for the Payette Boise Reclamation Project within the Boise National Forest is no longer used for the purpose for which the land was withdrawn, and the partial revocation of the withdrawal is needed to facilitate a land conveyance under the Small Tracts Act to resolve an unintentional encroachent.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. The withdrawal created by a Secretarial Order dated December 4, 1909, which withdrew National Forest System lands from all forms of appropriation under the public land laws, including the United States mining laws, but not from leasing under the mineral leasing laws, and reserved the land for use by the Bureau of Reclamation for the Payette Boise Reclamation Project, is hereby partially revoked insofar as it affects the following described land:

Boise National Forest

Boise Meridian

T. 5 N., R. 8 E.,
Sec. 9, lots 1 and 2.

The area described contains 78.69 acres in Elmore County.

2. At 9:00 a.m. on November 26, 2012, the land described in Paragraph 1 shall be opened to disposition under the Small Tracts Act (16 U.S.C. 521c–521i), subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: October 4, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–26352 Filed 10–25–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–11477; 2200–1100–665]

Notice of Inventory Completion: Maxwell Museum of Anthropology, University of New Mexico, Albuquerque, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Maxwell Museum's Laboratory of Human Osteology has completed an inventory of human remains, in consultation with the appropriate Indian tribe, and has determined that there is a cultural affiliation between the human remains and a present-day Indian tribe.

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Maxwell Museum of Anthropology. Repatriation of the human remains to the Indian tribe stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Maxwell Museum at the address below by November 26, 2012.

ADDRESSES: Dr. Heather Edgar, Maxwell Museum of Anthropology, MSC01 1050, University of New Mexico, Albuquerque, NM 87131–0001, telephone (505) 277–4415.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Maxwell Museum in Albuquerque, NM. The human remains were removed from Sandoval County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the professional staff in the Maxwell Museum's Laboratory of Human Osteology in consultation with representatives of the Pueblo of Jemez, New Mexico.

History and Description of the Remains

Between 1934 and 1935, human remains representing, at minimum, one individual were removed from the Jemez Cave site in Sandoval County, NM, by directors of the University of New Mexico Field School and eight laborers. The Museum of New Mexico, the School of American Research, and the University of New Mexico supported the project and the excavation. The human remains were accessioned by the Maxwell Museum in 1990. No known individuals were identified. No associated funerary objects are present.

In the early 1900s, human remains representing, at minimum, seven individuals were removed from the Amoxiumqua site (LA 481), in Sandoval County, NM, during excavations by University of New Mexico field schools. The human remains were accessioned by the Maxwell Museum in 1973. No known individuals were identified. No associated funerary objects are present.

Between 1939 and 1949, human remains representing, at minimum, 22 individuals were removed from the BJ 74 site (LA 38962), in Sandoval County, NM, during excavations by Paul Reiter and students from the University of New Mexico. The human remains were accessioned by the Maxwell Museum in 2006. No known individuals were identified. No associated funerary objects are present.

The sites listed in this notice are Puebloan sites of the upper Jemez River drainage and are ancestral Jemez sites. Populations that inhabited these locations are linked by Native oral tradition, Euro-American records, and archaeological evidence to members of the present-day Pueblo of Jemez, New Mexico.

Determinations Made by the Maxwell Museum

Officials of the Maxwell Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 30 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Pueblo of Jemez.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Heather Edgar, Maxwell Museum of Anthropology, Albuquerque, NM 87131–0001, telephone (505) 277–4415 before November 26, 2012. Repatriation of the human remains to the Pueblo of Jemez, New Mexico, may proceed after that date if no additional claimants come forward.

The Maxwell Museum is responsible for notifying the Pueblo of Jemez, New Mexico, that this notice has been published.

Dated: October 10, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–26316 Filed 10–25–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–11478 2200–1100–665]

Notice of Inventory Completion: Maxwell Museum of Anthropology, University of New Mexico, Albuquerque, NM; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Maxwell Museum's Laboratory of Human Osteology has corrected an inventory of human remains published in a Notice of Inventory Completion in the **Federal Register** on September 13, 2011. This notice corrects the minimum number of individuals in that inventory. Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the Maxwell Museum of Anthropology. Repatriation of the human remains to the Indian tribe stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the Maxwell Museum at the address below by November 26, 2012.

ADDRESSES: Dr. Heather Edgar, Maxwell Museum of Anthropology, MSC01 1050, University of New Mexico, Albuquerque, NM 87131–0001, telephone (505) 277–4415.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains in the possession of the Maxwell Museum, Albuquerque, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals published in a Notice of Inventory Completion in the **Federal Register** (76 FR 56468–56469, September 13, 2011). Following publication, additional culturally affiliated human remains that came from the sites published in the initial notice were discovered in the collection.

Correction

In the **Federal Register** (76 FR 56468–56469, September 13, 2011), paragraph seven, sentence one is corrected by substituting the number 310 in place of the number 189.

In the **Federal Register** (76 FR 56468–56469, September 13, 2011), paragraph eight, sentence one is corrected by substituting the number 173 in place of the number 78.

In the **Federal Register** (76 FR 56468–56469, September 13, 2011), paragraph nine, sentence one is corrected by substituting the number 103 in place of the number 65.

In the **Federal Register** (76 FR 56468–56469, September 13, 2011), paragraph ten, sentence one is corrected by substituting the number 199 in place of the number 84.

In the **Federal Register** (76 FR 56468–56469, September 13, 2011), paragraph twelve, bullet one is corrected by substituting the number 785 in place of the number 416.

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Heather Edgar, Maxwell Museum of Anthropology, Albuquerque, NM 87131–0001, telephone (505) 277–4415 before November 26, 2012. Repatriation of the human remains to the Pueblo of Jemez, New Mexico, may proceed after that date if no additional claimants come forward.

The Maxwell Museum is responsible for notifying the Pueblo of Jemez, New Mexico, that this notice has been published.

Dated: October 10, 2012.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2012–26319 Filed 10–25–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–11466; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 29, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 13, 2012. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 4, 2012.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

AMERICAN SAMOA

Eastern District

Blunts Point, Matautu Ridge, Pago Pago, 12000918

Masefau, Masefau Beach, Masefau, 12000919

Western District

Afao, Afao Beach, Afao, 12000916

Poloa, Poloa Beach, Poloa, 12000917

MISSISSIPPI

Adams County

Bellhaven Historic District, Roughly bounded by E. Fortification, & N. State Sts., I–55, & Riverside Dr., Jackson, 12000920

Forrest County

Hub City Historic District (Boundary Increase II), Roughly bounded by E. 4th, Gordon, E. Front, Green, & Melrose Sts., Gordon's Cr., & 1st. Ave., Hattiesburg, 12000921

Jackson County

Gautier School, 505 Magnolia Tree Dr., Gautier, 12000922

Sunflower County

Heathman Plantation Commissary, Heathman Rd., Indianola, 12000923

Washington County

Greenville Commercial Historic District (Boundary Increase I), Roughly bounded by Poplar, Central, Alexander, & Delleseps Sts., Greenville, 12000924

MISSOURI

St. Louis Independent City

ABC Auto Sales and Investment Company Building, (Auto-Related Resources of St. Louis, Missouri MPS) 3509–27 Page Blvd., St. Louis (Independent City), 12000925

Executive Office Building, 515–517 Olive St., St. Louis (Independent City), 12000926

Municipal Courts Building, 1320 Market St., St. Louis (Independent City), 12000927

North Broadway Glass and Plow Warehouse District, 2500–06, 2508–14, 2516–22, 2600–06, 2608–10, & 2612–14 N. Broadway, St. Louis (Independent City), 12000928

NEVADA

Washoe County

Reno Southern Pacific Railroad Depot, 280 Commercial Row, Reno, 12000929

OREGON

Multnomah County

Broadway Bridge, (Willamette River Highway Bridges of Portland, Oregon MPS) Willamette R. at RM 11.7, Portland, 12000930

Burnside Bridge, (Willamette River Highway Bridges of Portland, Oregon MPS) Willamette R. at RM 12.7, Portland, 12000931

Hawthorne Bridge, (Willamette River Highway Bridges of Portland, Oregon MPS) Willamette R. at RM 13.1, Portland, 12000932

Morrison Bridge, (Willamette River Highway Bridges of Portland, Oregon MPS) Willamette R. at RM 12.8, Portland, 12000933

PUERTO RICO

Aguas Buenas Municipality

Parque de Bombas Maximiliano Merced, (Fire Stations in Puerto Rico MPS) 42 Munoz Rivera St., Aguas Buenas, 12000934

Florida Municipality

De Luxe Florida, (Early Prototypes for Manufacturing Plants in Puerto Rico, 1948–1958 MPS) PR 642, KM 11.1, Florida, 12000935

Guayanilla Municipality

Padre Nazario School, (Early 20th Century Schools in Puerto Rico MPS) 4 Concepcion St., Guayanilla, 12000936

Juncos Municipality

Gallardo, Jose Miguel, School, (Early 20th Century Schools in Puerto Rico MPS) Jct. of Paseo Escute Final & Algarin St., Juncos, 12000937

Luquillo Municipality

Williams Products Corporation, (Early Prototypes for Manufacturing Plants in Puerto Rico, 1948–1958 MPS) PR 992, KM 0.3, Luquillo, 12000938

Patillas Municipality

Semidey, Maria Davila, School, (Early 20th Century Schools in Puerto Rico MPS) 300 Munoz Rivera St., Patillas, 12000939

Penuelas Municipality

Webster, Daniel, School, (Early 20th Century Schools in Puerto Rico MPS) 255 Luis Munoz Rivera St., Penuelas, 12000940

SOUTH CAROLINA

Anderson County

Faith Cabin Library at Anderson County Training School, (Faith Cabin Libraries in South Carolina 1932-ca.1960 MPS) 145 Town St., Pendleton, 12000941

Oconee County

Faith Cabin Library at Seneca Junior College, (Faith Cabin Libraries in South Carolina 1932-ca.1960 MPS) 298 S. Poplar St., Seneca, 12000942

TENNESSEE

Crockett County

Fruitvale Historic District, Along Fruitvale Rd. & Jct. with Edward Williams Rd., Fruitvale, 12000943

Maury County

Miller, Washington, House, 1450 Frye Rd., Columbia, 12000944

Sullivan County

Holston Avenue Neighborhood Historic District, Roughly, Holston, 7th, 8th, & Watauga Aves., Haynes, Orchard, Clyde Reser, Reynolds, & Weise Sts., Bristol, 12000945

Williamson County

Franklin City Cemetery, N. Margin St. between 3rd & 4th Aves. N., Franklin, 12000946

Rest Haven Cemetery, N. Margin St. between 4th & 5th Aves. N., Franklin, 12000947

A request for removal has been made for the following properties:

INDIANA

Spencer County

Deutsch Evangelische St. Paul's Kirche, S. of Santa Claus on Santa Fe Rd., Santa Claus, 84001644

WISCONSIN

Dane County

Savage House, (Cooksville MRA) WI 1, Stoughton, 80000392

Winnebago County

Buckstaff Observatory, 2119 N. Main St., Oshkosh, 79000119

[FR Doc. 2012–26326 Filed 10–25–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–11265; 2200–1100–665]

Native American Graves Protection and Repatriation Review Committee: Notice of Nomination Solicitation

AGENCY: National Park Service, Interior.

ACTION: Notice of nomination solicitation.

SUMMARY: The National Park Service is soliciting nominations for one member of the Native American Graves Protection and Repatriation Review Committee. The Secretary of the Interior will appoint the member from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders. The nominee must be a traditional Indian religious leader. Nominations must include the following information:

1. Nominations by traditional religious leaders: Nominations must be submitted with the nominator's original signature and daytime telephone number. The nominator must explain that he or she meets the definition of traditional religious leader.

2. Nominations by Indian tribes or Native Hawaiian organizations: Nominations must be submitted on official tribal or organization letterhead with the nominator's original signature and daytime telephone number. The nominator must be the official authorized by the tribe or organization to submit nominations in response to this solicitation. The nomination must include a statement that the nominator is so authorized.

3. A nomination must include the following information:

a. The nominee's name, postal address, daytime telephone number, and email address; and

b. The nominee's resume or brief biography emphasizing the nominee's NAGPRA experience and ability to work effectively as a member of an advisory board.

DATES: Nominations must be received by January 24, 2013.

ADDRESSES: Sherry Hutt, Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th Floor (2253), Washington, DC 20005.

SUPPLEMENTARY INFORMATION: 1. The Review Committee was established by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), at 25 U.S.C. 3006.

2. The Review Committee is responsible for:

a. Monitoring the NAGPRA inventory and identification process;

b. Reviewing and making findings related to the identity or cultural affiliation of cultural items, or the return of such items;

c. Facilitating the resolution of disputes;

d. Compiling an inventory of culturally unidentifiable human remains and developing a process for disposition of such remains;

e. Consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the Review Committee affecting such tribes or organizations;

f. Consulting with the Secretary of the Interior in the development of regulations to carry out NAGPRA; and

g. Making recommendations regarding future care of repatriated cultural items.

3. Seven members compose the Review Committee. All members are appointed by the Secretary of the Interior. The Secretary may not appoint Federal officers or employees to the Review Committee.

a. Three members are appointed from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders. At least two of these members must be traditional Indian religious leaders.

b. Three members are appointed from nominations submitted by national museum or scientific organizations.

c. One member is appointed from a list of persons developed and consented to by all of the other members.

4. Members serve as Special Governmental Employees, which requires submission of annual financial disclosure reports and completion of annual ethics training.

5. Appointment terms: Members are appointed for 4-year terms and incumbent members may be reappointed for 2-year terms.

6. The Review Committee's work is completed during public meetings. The Review Committee normally meets face-to-face two times per year, and each meeting is normally two or three days. The Review Committee may also hold one or more public teleconferences of several hours duration.

7. Compensation: Review Committee members are compensated for their participation in Review Committee meetings.

8. Reimbursement: Review Committee members are reimbursed for travel expenses incurred in association with Review Committee meetings.

9. Additional information regarding the Review Committee, including the Review Committee's charter, meeting protocol, and dispute resolution procedures, is available on the National NAGPRA Program Web site, at *www.nps.gov/NAGPRA/REVIEW/*.

10. The terms ''Indian tribe,'' and ''Native Hawaiian organization,'' are defined in statute at 25 U.S.C. 3001(7) and (11). Indian tribe means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Village, which is recognized as eligible for the special

programs and services provided by the United States to Indians because of their status as Indians. Native Hawaiian organization means any organization which serves and represents the interests of Native Hawaiians; has as a primary stated purpose the provision of services to Native Hawaiians; and has expertise in Native Hawaiian affairs. Native Hawaiian organization includes the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai'i Nei. ''Traditional religious leader'' of a tribe is not defined in statute, but is defined in regulation at 43 CFR 10.2(d)(3).

11. ''National museum organizations'' and ''national scientific organizations'' are not defined in the statute or regulations.

FOR FURTHER INFORMATION CONTACT: Sherry Hutt, Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th Floor (2253), Washington, DC 20005, telephone (202) 354–1479, email *sherry_hutt@nps.gov.*

Dated: September 12, 2012.

Sherry Hutt,

Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee.

[FR Doc. 2012–26323 Filed 10–25–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–11264; 2200–1100–665]

Native American Graves Protection and Repatriation Review Committee: Notice of Nomination Solicitation

AGENCY: National Park Service, Interior.

ACTION: Notice of Nomination Solicitation.

SUMMARY: The National Park Service is soliciting nominations for one member of the Native American Graves Protection and Repatriation Review Committee. The Secretary of the Interior will appoint the member from nominations submitted by national museum organizations and national scientific organizations. Nominations must include the following information:

1. The nominator must be the official authorized by the organization to submit nominations in response to this solicitation. The nomination must include a statement that the nominator is so authorized on behalf of the identified national museum or scientific organization.

2. A nomination must include the following information:

a. The nominee's name, postal address, daytime telephone number, and email address; and

b. the nominee's resume or brief biography emphasizing the nominee's NAGPRA experience and ability to work effectively as a member of an advisory board.

DATES: Nominations must be received by January 24, 2013.

ADDRESSES: Sherry Hutt, Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th Floor (2253), Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

1. The Review Committee was established by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), at 25 U.S.C. 3006.

2. The Review Committee is responsible for:

a. Monitoring the NAGPRA inventory and identification process;

b. Reviewing and making findings related to the identity or cultural affiliation of cultural items, or the return of such items;

c. Facilitating the resolution of disputes;

d. Compiling an inventory of culturally unidentifiable human remains and developing a process for disposition of such remains;

e. Consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the Review Committee affecting such tribes or organizations;

f. Consulting with the Secretary of the Interior in the development of regulations to carry out NAGPRA; and

g. Making recommendations regarding future care of repatriated cultural items.

3. Seven members compose the Review Committee. All members are appointed by the Secretary of the Interior. The Secretary may not appoint Federal officers or employees to the Review Committee.

a. Three members are appointed from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders. At least two of these members must be traditional Indian religious leaders.

b. Three members are appointed from nominations submitted by national museum or scientific organizations.

c. One member is appointed from a list of persons developed and consented to by all of the other members.

4. Members serve as Special Governmental Employees, which requires submission of annual financial disclosure reports and completion of annual ethics training.

5. Appointment terms: Members are appointed for 4-year terms and incumbent members may be reappointed for 2-year terms.

6. The Review Committee's work is completed during public meetings. The Review Committee normally meets face-to-face two times per year, and each meeting is normally two or three days. The Review Committee may also hold one or more public teleconferences of several hours duration.

7. Compensation: Review Committee members are compensated for their participation in Review Committee meetings.

8. Reimbursement: Review Committee members are reimbursed for travel expenses incurred in association with Review Committee meetings.

9. Additional information regarding the Review Committee, including the Review Committee's charter, meeting protocol, and dispute resolution procedures, is available on the National NAGPRA Program Web site, at *www.nps.gov/NAGPRA/REVIEW/.*

10. The terms ''Indian tribe,'' and ''Native Hawaiian organization,'' are defined in statute at 25 U.S.C. 3001(7) and (11). Indian tribe means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Village, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Native Hawaiian organization means any organization which serves and represents the interests of Native Hawaiians; has as a primary stated purpose the provision of services to Native Hawaiians; and has expertise in Native Hawaiian affairs. Native Hawaiian organization includes the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai'i Nei. ''Traditional religious leader'' of a tribe is not defined in statute, but is defined in regulation at 43 CFR 10.2(d)(3).

11. ''National museum organizations'' and ''national scientific organizations'' are not defined in the statute or regulations.

FOR FURTHER INFORMATION CONTACT: Sherry Hutt, Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th Floor (2253), Washington, DC 20005, telephone (202) 354–1479, email *sherry_hutt@nps.gov.*

Dated: September 12, 2012.

Sherry Hutt,

Designated Federal Officer, Native American Graves Protection and Repatriation Review Committee.

[FR Doc. 2012–26320 Filed 10–25–12; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Outer Continental Shelf (OCS) Western Planning Area (WPA) Gulf of Mexico (GOM) Oil and Gas Lease Sale 229

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Final Notice of Sale

SUMMARY: On Wednesday, November 28, 2012, BOEM will open and publicly announce bids received for the blocks offered in the Western Planning Area (WPA) Sale 229, in accordance with provisions of the OCS Lands Act (OCSLA) (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR part 556). The Final Notice of Sale (NOS) 229 Package (Final NOS Package) contains information essential to potential bidders, and bidders are charged with the knowledge of the documents contained in that package. The Final NOS Package may be obtained from BOEM, as provided below.

DATES: Public bid reading for WPA Sale 229 will begin at 9 a.m., Wednesday, November 28, 2012, at the Mercedes-Benz Superdome, 1500 Sugarbowl Drive, New Orleans, Louisiana 70112. The lease sale will be held in the St. Charles Club Room on the second floor (Loge Level). Entry to the Superdome will be on the Poydras Street side of the building through Gate A on the Ground Level, and parking will be available at Garage 6. All times referred to in this document are local New Orleans times, unless otherwise specified.

ADDRESSES: Interested parties can obtain a Final NOS Package by writing, calling, or visiting the Web site: Gulf of Mexico Region Public Information Office, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF. BOEM Internet Web site at:*http://www.boem.gov/About-BOEM/BOEM-Regions/Gulf-of-Mexico-Region/Index.aspx.*

Filing of Bids: Bidders must submit sealed bids to the address below, between 8 a.m. and 4 p.m. on normal working days, and from 8 a.m. to the Bid Submission Deadline of 10:00 a.m. on Tuesday, November 27, 2012, the day before the lease sale. If bids are mailed, please address the envelope containing all of the sealed bids as follows:

Attention: Leasing and Financial Responsibility Section, BOEM Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Contains Sealed Bids for WPA Oil and Gas Lease Sale 229

Please Deliver to Ms. Cindy Thibodeaux or Ms. Kasey Couture, 2nd Floor, Immediately

Please Note: 1. Bidders mailing bids are advised to call Ms. Cindy Thibodeaux at (504) 736–2809, or Ms. Kasey Couture at (504) 736–2909, immediately after putting their bids in the mail. If BOEM receives bids later than the Bid Submission Deadline, the BOEM Regional Director (BOEM RD) will return those bids unopened to bidders. Should an unexpected event such as flooding or travel restrictions be significantly disruptive to bid submission, BOEM may extend the Bid Submission Deadline. Bidders may call (504) 736–0557 or access the BOEM Gulf of Mexico Internet Web site at *http://www.boem.gov/About-BOEM/BOEM-Regions/Gulf-of-Mexico-Region/Index.aspx* for information about the possible extension of the Bid Submission Deadline due to such an event.

2. Blocks or portions of blocks beyond the United States (U.S.) Exclusive Economic Zone are offered based upon provisions of the 1982 Law of the Sea Convention.

3. Blocks near the U.S.-Mexico maritime and continental shelf boundary could become subject to the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico (Agreement). Bidders are advised to refer to the *Bids on Blocks near U.S.-Mexico Maritime and Continental Shelf Boundary* portion of this document for detailed information pertaining to the opening of bids affecting blocks in this area.

Areas Offered For Leasing: In WPA Sale 229, BOEM is offering to lease all blocks and partial blocks listed in the document ''List of Blocks Available for Leasing'' included in the Final NOS package. All of these blocks are shown on the following leasing maps and Official Protraction Diagrams (OPDs):

Outer Continental Shelf Leasing Maps—Texas Map Numbers 1 Through 8 (These 16 Maps Sell for $2.00 each.)

TX1 South Padre Island Area (revised November 1, 2000)
TX1A South Padre Island Area, East Addition (revised November 1, 2000)
TX2 North Padre Island Area (revised November 1, 2000)
TX2A North Padre Island Area, East Addition (revised November 1, 2000)
TX3 Mustang Island Area (revised November 1, 2000)
TX3A Mustang Island Area, East Addition (revised September 3, 2002)
TX4 Matagorda Island Area (revised November 1, 2000)
TX5 Brazos Area (revised November 1, 2000)
TX5B Brazos Area, South Addition (revised November 1, 2000)
TX6 Galveston Area (revised November 1, 2000)
TX6A Galveston Area, South Addition (revised November 1, 2000)
TX7 High Island Area (revised November 1, 2000)
TX7A High Island Area, East Addition (revised November 1, 2000)
TX7B High Island Area, South Addition (revised November 1, 2000)
TX7C High Island Area, East Addition, South Extension (revised November 1, 2000)
TX8 Sabine Pass Area (revised November 1, 2000)

Outer Continental Shelf Leasing Maps—Louisiana Map Numbers 1A, 1B, and 12 (These 3 Maps Sell for $2.00 Each.)

LA1A West Cameron Area, West Addition (revised February 28, 2007)
LA1B West Cameron Area, South Addition (revised February 28, 2007)
LA12 Sabine Pass Area (revised July 1, 2011)

Outer Continental Shelf Official Protraction Diagrams (These 7 Diagrams Sell for $2.00 each.)

NG14–03 Corpus Christi (revised November 1, 2000)
NG14–06 Port Isabel (revised November 1, 2000)
NG15–01 East Breaks (revised November 1, 2000)
NG15–02 Garden Banks (revised February 28, 2007)
NG15–04 Alaminos Canyon (revised November 1, 2000)
NG15–05 Keathley Canyon (revised February 28, 2007)
NG15–08 Sigsbee Escarpment (revised February 28, 2007)

Please Note: A CD–ROM (in ARC/INFO and Acrobat (.pdf) format) containing all of the GOM leasing maps and OPDs, except for those not yet converted to digital format, is available from the BOEM Gulf of Mexico Region Public Information Office for a price of $15.00. These GOM leasing maps and OPDs are also available for free online in .pdf and .gra formats at *http://www.boem.gov/Oil-and-Gas-Energy-Program/Mapping-and-Data/Official-Protraction-Diagrams.aspx.*

For the current status of all GOM WPA leasing maps and OPDs, please refer to 66 FR 28002 (published May 21, 2001), 67 FR 60701 (published September 26, 2002), 72 FR 27590 (published May 16, 2007), and 76 FR 54787 (published September 2, 2011). In addition, Supplemental Official OCS Block Diagrams (SOBDs) for blocks containing the U.S. 200 Nautical Mile

Limit line and the U.S.-Mexico Maritime and Continental Shelf Boundary line are available. These SOBDs also are available from BOEM Gulf of Mexico Region Public Information Office. For additional information, or to order the above referenced maps or diagrams, please call the Mapping and Automation Section at (504) 736–5768.

All blocks are shown on these leasing maps and OPDs. The available Federal acreage of each whole and partial block in this lease sale is shown in the document ''List of Blocks Available for Leasing'' included in the Final NOS Package. Some of these blocks may be partially leased or deferred, or transected by administrative lines such as the Federal/state jurisdictional line. A bid on a block must include all of the available Federal acreage of that block. Also, information on the unleased portions of such blocks is found in the document ''Western Planning Area, Lease Sale 229, November 28, 2012—Unleased Split Blocks and Available Unleased Acreage of Blocks with Aliquots and Irregular Portions under Lease or Deferred'' included in the Final NOS Package.

Areas Not Available For Leasing: The following whole and partial blocks are not offered for lease in this sale:

Whole blocks and portions of blocks that lie within the boundaries of the Flower Garden Banks National Marine Sanctuary in the East and West Flower Garden Banks and Stetson Bank (the following list includes all blocks affected by the Sanctuary boundaries):

High Island, East Addition, South Extension (Leasing Map TX7C)

Whole Block: A–398.

Portions of Blocks: A–366*, A–367*, A–374*, A–375, A–383*, A–384*, A–385*, A–388, A–389, A–397*, A–399, A–401.

*Leased.

High Island, South Addition (Leasing Map TX7B)

Portions of Blocks: A–502, A–513.

Garden Banks (OPD NG15–02)

Portions of Blocks: 134, 135.

Whole blocks and portions of blocks that lie within the former Western Gap and that lie within 1.4 nautical miles north of the continental shelf boundary between the United States and Mexico:

Keathley Canyon (OPD NG15–05)

Portions of Blocks: 978 through 980.

Sigsbee Escarpment (OPD NG15–08)

Whole Blocks: 11, 57, 103, 148, 149, 194.

Portions of Blocks: 12 through 14, 58 through 60, 104 through 106, 150.

Blocks currently subject to bid or termination appeals:

Garden Banks (NG15–02)

Blocks 623 and 624.

Please Note:

Bids on Blocks Near the U.S.-Mexico Maritime and Continental Shelf Boundary

The following definitions apply to this section:

''Agreement'' refers to an agreement between the United Mexican States and the United States of America that addresses identification and unitization of transboundary hydrocarbon reservoirs, allocation of production, inspections, safety, and environmental *protection. A copy of the Agreement can be found at http://www.boem.gov/BOEM-Newsroom/Library/Boundaries-Mexico.aspx.*

''Boundary Area'' means an area comprised of any and all blocks in the WPA, that are located or partially located within three statute miles of the maritime and continental shelf boundary with Mexico, as that maritime boundary is delimited in the November 24, 1970 Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary; the May 4, 1978 Treaty on Maritime Boundaries between the United Mexican States and the United States of America; and the June 9, 2000 Treaty on the Continental Shelf between the Government of the United Mexican States and the Government of the United States of America.

The Agreement was signed on February 20, 2012, but has not yet been approved by Congress. Bids submitted on any available block in the ''Boundary Area'' (as defined above) may be segregated from bids submitted on blocks outside the Boundary Area. Bids submitted on available blocks outside the Boundary Area will be opened on the date scheduled for sale. Bids submitted on blocks in the Boundary Area may not be opened on the date scheduled for the sale, but may be opened at a later date. Within 30 days after the approval of the Agreement or by May 31, 2013, whichever occurs first, the Secretary of the Interior will determine whether it is in the best interest of the United States either to open bids for Boundary Area blocks or to return the bids unopened.

In the event the Secretary decides to open bids on any available blocks in the Boundary Area, BOEM will notify such bidders at least 30 days prior to opening such bids, and will describe the terms of the Agreement under which leases in the Boundary Area will be issued. Bidders on these blocks may withdraw their bids at any time after such notice up until 10 a.m. of the day before bid opening. If BOEM does not give notice within 30 days of the approval of the Agreement, or by May 31, 2013, whichever comes first, BOEM will return the bids unopened. This timing will allow companies to make decisions regarding the next annual WPA lease sale (anticipated in 2013), which also may offer blocks in this area. BOEM reserves the right to return these bids at any time. BOEM will not disclose which blocks received bids or the names of bidders in this area unless and until the bids are opened.

BOEM currently anticipates that blocks in the Boundary Area that are not awarded as a result of WPA Sale 229 would be reoffered in the next lease sale for the WPA in 2013.

The following blocks comprise the Boundary Area:

Port Isabel Blocks—914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 945, 946, 947, 948, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 989, 990, 991, and 992.

Alaminos Canyon Blocks—881, 882, 883*, 884*, 885, 886, 887, 888, 889, 890, 891, 892, 893*, 894*, 895, 896, 897, 898, 899*, 900*, 901*, 902*, 903*, 904*, 905, 906, 907, 908, 909, 910, 911, 912, 925, 926, 927*, 928*, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939*, 940, 941, 942*, 943*, 944*, 945*, 946, 947*, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, and 1009.

Keathley Canyon Blocks—925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, and 981.

Sigsbee Escarpment Blocks—11, 12, 13, 14, 15, 57, 58, 59, 60, 61, 103, 104, 105, 106, 148, 149, 150, and 194.

South Padre Island Blocks—1154, 1163, 1164, 1165, and 1166.

South Padre Island, East Addition Blocks—1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, A 78, A 79, A 80, A 81, A 82, A 83, A 84, A 85, A 86, A 87, A 89, and A 90.

*Leased.

Statutes and Regulations: Each lease is issued pursuant to OCSLA, regulations promulgated pursuant thereto, other applicable statutes and regulations in existence upon the Effective Date of the lease, and those applicable statutes enacted (including amendments to OCSLA or other statutes) and regulations promulgated thereafter, except to the extent they

explicitly conflict with an express provision of the lease. Amendments to existing statutes and regulations, including but not limited to OCSLA, as well as the enactment of new statutes and promulgation of new regulations, which do not explicitly conflict with an express provision of the lease, will apply to the leases issued as a result of this sale. Moreover, the lessee expressly bears the risk that such new statutes and regulations (i.e., those that do not explicitly conflict with an express provision of the lease) may increase or decrease the lessee's obligation under the lease.

BOEM will use Form BOEM–2005 (October 2011) to convey leases resulting from this sale. This lease form may be viewed on the BOEM Web site at *http://www.boem.gov/About-BOEM/Procurement-Business-Opportunities/BOEM–OCS-Operation-Forms/BOEM–OCS-Operation-Forms.aspx.* The lease form will be amended to conform with the specific terms, conditions, and stipulations applicable to the individual lease.

Lease Terms and Conditions: Initial periods, minimum bonus bid amounts, rental rates, escalating rental rates for leases in depths less than 400 meters with an initial period longer than 5 years, royalty rates, minimum royalties, and royalty suspension provisions, if any, applicable to this sale are noted below. Additionally, these terms and conditions for leases resulting from this lease sale are depicted on the map ''Final, Western Planning Area, Lease Sale 229, November 28, 2012, Lease Terms and Economic Conditions.''

Initial Periods: Initial periods are summarized in the following table:

Water depth in meters	Initial periods
0 to <400	Standard initial period is 5 years; the lessee may earn an additional 3 years (i.e., for an 8-year extended initial period), if a well is spudded during the first 5 years of the lease targeting hydrocarbons below 25,000 feet True Vertical Depth Subsea (TVD SS).
400 to <800 ..	Standard initial period is 5 years; the lessee will earn an additional 3 years (i.e., for an 8-year extended initial period), if a well is spudded during the first 5 years of the lease.
800 to <1,600	Standard initial period is 7 years; the lessee will earn an additional 3 years (i.e., for a 10-year extended initial period), if a well is spudded during the first 7 years of the lease.
1,600+	10 years.

A. The standard initial period for a lease in water depths of less than 400 meters issued from this sale is 5 years. If the lessee spuds a well within the first 5 years of the lease targeting hydrocarbons below 25,000 feet TVD SS, then the lessee may earn an additional 3 years, for an 8-year extended initial period. The lessee will earn the 8-year extended initial period in cases where the well is drilled to a target below 25,000 feet TVD SS, or the lessee may earn the 8-year extended initial period in cases where the well targets, but does not reach, a depth below 25,000 feet TVD SS due to mechanical or safety reasons, where sufficient evidence is provided.

In order to earn the 8-year extended initial period, the lessee is required to submit to the Bureau of Safety and Environmental Enforcement (BSEE) GOM Regional Supervisor for Production and Development (RSPD), 1201 Elmwood Park Boulevard, Mail Stop GE 933C, New Orleans, Louisiana, 70123–2394, within 30 days after completion of the drilling operation, a letter providing the well number, spud date, information demonstrating a target below 25,000 feet TVD SS and whether that target was reached, and if applicable, any safety, mechanical or other problems encountered that prevented the well from reaching a depth below 25,000 feet TVD SS. The RSPD must concur in writing that the conditions have been met in order for the lessee to earn the 8-year extended initial period. The RSPD will provide a written response within 30 days of receipt of the letter provided.

A lease that has earned the 8-year extended initial period by spudding a well during the first 5 years of the lease with a hydrocarbon target below 25,000 feet TVD SS, confirmed by the RSPD, will not be eligible for a suspension for that same period under the regulations at 30 CFR 250.175 because the lease is not at risk of expiring.

B. The standard initial period for a lease in water depths of 400 meters to less than 800 meters issued from this sale is 5 years. The lessee will earn an additional 3 years, for an 8-year extended initial period, if the lessee spuds a well within the first 5 years of the lease.

In order to earn the 8-year extended initial period, the lessee is required to submit to the appropriate BSEE District Manager, within 30 days after spudding a well, a letter providing the well number and spud date, and requesting concurrence that the lessee earned the 8-year extended initial period. The BSEE District Manager will review the request and make a written determination within 30 days of receipt of the request. The BSEE District Manager must concur in writing that the conditions have been met by the lessee to earn the 8-year extended initial period.

C. The standard initial period for a lease in water depths of 800 meters to less than 1,600 meters issued from this sale will be 7 years. The lessee will earn an additional 3 years, for a 10-year extended initial period, if the lessee spuds a well within the first 7 years of the lease. In order to earn the 10-year extended initial period, the lessee is required to submit to the appropriate BSEE District Manager, within 30 days after spudding a well, a letter providing the well number and spud date, and requesting concurrence that the lessee earned the 10-year extended initial period. The BSEE District Manager will review the request and make a determination. A written response will be sent to the lessee documenting the BSEE District Manager's decision within 30 days of receipt of the request. The BSEE District Manager must concur in writing that the conditions have been met by the lessee to earn the 10-year extended initial period.

D. The standard initial period for a lease in water depths of 1,600 meters or greater issued from this sale will be 10 years.

Minimum Bonus Bid Amounts

- $25.00 per acre or fraction thereof for blocks in water depths of less than 400 meters.
- $100.00 per acre or fraction thereof for blocks in water depths of 400 meters or deeper.

Rental Rates

Annual rental rates are summarized in the following table:

RENTAL RATES PER ACRE OR FRACTION THEREOF

Water depth in meters	Years 1–5	Years 6, 7, & 8+
0 to <200	$7.00	$14.00, $21.00, & $28.00
200 to <400	11.00	$22.00, $33.00, & $44.00
400+	11.00	$16.00

Escalating Rental Rates for Leases With an 8-Year Extended Initial Period in Depths of Less Than 400 Meters

Any lease in water depths less than 400 meters that earns an 8-year extended initial period will pay an escalating rental rate as shown above. The rental rates after the fifth year for blocks in less than 400 meters will become fixed and no longer escalate if another well is spudded after the fifth year of the lease that targets hydrocarbons below 25,000 feet TVD SS, and BSEE concurs that such a well has been spudded. In this case, the rental rate will become fixed at the rental rate in effect during the lease year in which the additional well was spudded.

Royalty Rate

- 18.75 percent.

Minimum Royalty

- $7.00 per acre or fraction thereof per year for blocks in water depths of less than 200 meters.
- $11.00 per acre or fraction thereof per year for blocks in water depths of 200 meters or deeper.

Royalty Suspension Provisions

Leases with royalty suspension volumes (RSVs) are authorized under existing BSEE regulations at 30 CFR part 203 and BOEM regulations at 30 CFR part 560.

Deep and Ultra-Deep Gas Royalty Suspensions

A lease issued as a result of this sale may be eligible for RSV incentives for deep and ultra-deep wells pursuant to 30 CFR part 203, implementing requirements of the Energy Policy Act of 2005. These RSV incentives are conditioned upon applicable price thresholds:

- Certain wells on leases in 0 to less than 400 meters of water depth completed to a drilling depth of 20,000 feet TVD SS or deeper may receive an RSV of 35 billion cubic feet of natural gas.
- Certain wells on leases in 200 to less than 400 meters of water depth completed from 15,000 to 20,000 feet TVD SS that begin production before May 3, 2013, may receive smaller RSV incentives.

Lease Stipulations: The map ''Final, Western Planning Area, Lease Sale 229, November 28, 2012, Stipulations and Deferred Blocks'' depicts those blocks on which one or more of five lease stipulations apply: (1) Topographic Features; (2) Military Areas; (3) Law of the Sea Convention Royalty Payment; (4) Protected Species; and (5) Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico.

The texts of the stipulations are contained in the document ''Lease Stipulations, Western Planning Area, Oil and Gas Lease Sale 229, Final Notice of Sale'' included in the Final NOS Package. In addition, the ''List of Blocks Available for Leasing,'' contained in the Final NOS Package, identifies the lease stipulations applicable to each block.

Information to Lessees: The Final NOS Package contains an ''Information to Lessees'' document that provides information on certain issues pertaining to this oil and gas lease sale.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope. The outside of the envelope should be labeled ''Sealed Bid for Oil and Gas Lease Sale 229, not to be opened until 9 a.m., Wednesday, November 28, 2012.'' The submitting company's name, its GOM company number, the map name, map number, and block number should be clearly identified on the outside of the envelope.

The sealed bid should list the total amount of the bid in a whole dollar amount, as well as the sale number, the sale date, the submitting company's name, its GOM company number, the map name, map number, and the block number clearly identified. The information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the Final NOS Package. A blank bid form has been provided therein for convenience and may be copied and filled. The Final NOS Package includes a sample bid envelope for reference.

The Final NOS Package also includes a form for the telephone numbers and addresses of bidders. BOEM requests that bidders provide this information in the suggested format prior to or at the time of bid submission. The Telephone Numbers/Addresses of Bidders Form should not be enclosed within the sealed bid envelope.

BOEM published a list of restricted joint bidders for this lease sale in the **Federal Register** on October 23, 2012. Please also refer to joint bidding provisions at 30 CFR 556.41 for additional information. All bidders must execute all documents in conformance with signatory authorizations on file in BOEM's GOM Region Adjudication Section. Designated signatories must be authorized to bind their respective legal business entities (e.g., a corporation, partnership, or LLC) and must have an incumbency certificate setting forth the authorized signatories on file with the GOM Region Adjudication Section. Bidders submitting joint bids must include on the bid form the proportionate interest of each participating bidder, stated as a percentage, using a maximum of five decimal places (e.g., 33.33333 percent) with total interest equaling 100 percent. BOEM may require bidders to submit other documents in accordance with 30 CFR 556.46. BOEM warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders are advised that BOEM considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including payment of one-fifth of the bonus bid on all high bids. A statement to this effect must be included on each bid form (see the document ''Bid Form and Envelope'' contained in the Final NOS Package).

Withdrawal of Bids: Once submitted, bids may not be withdrawn unless the BOEM RD receives a written request for withdrawal from the company who submitted the bid(s), prior to 10 a.m. on Tuesday, November 27, 2012. This request must be typed on company letterhead and must contain the submitting company's name, its company number, the map name/number and block number(s) of the bid(s) to be withdrawn. The request must be in conformance with signatory authorizations on file in BOEM's GOM Region Adjudication Section. Signatories must be authorized to bind

their respective legal business entities (e.g., a corporation, partnership, or LLC) and must have: (1) An incumbency certificate and/or specific power of attorney setting forth express authority to act on the business entity's behalf for purposes of bidding and lease execution under OCSLA, and (2) the authorized signatories on file with BOEM's GOM Region Adjudication Section. The name and title of said signatory must be typed under the signature block on the withdrawal letter. Should the BOEM RD or the BOEM RD's designee approve such a request, he or she will indicate approval by affixing his or her signature and the date to the submitting company's request for withdrawal.

Rounding: The bonus bid amount must be stated in whole dollars. If the block acreage contains a decimal figure, then prior to calculating the minimum bonus bid, round up to the next whole acre. The appropriate minimum rate per acre is then applied to the whole (rounded up) acreage. If the resulting calculation results in any cents, round up to the next whole dollar amount. The bonus bid amount must be greater than or equal to the minimum bonus bid. Minimum bonus bid calculations, including all rounding, for all blocks are shown in the document ''List of Blocks Available for Leasing'' included in the Final NOS Package.

Bonus Bid Deposit: Each bidder submitting an apparent high bid must submit a bonus bid deposit to the U.S. Department of the Interior's Office of Natural Resources Revenue (ONRR) equal to one-fifth of the bonus bid amount for each such bid. All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury by 11 a.m. Eastern Time the day following bid reading (no exceptions). Account information is provided in the Electronic Funds Transfer (EFT) instructions found on the BOEM Web site at *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Lease-Sales/229/index.aspx.* Under the authority granted by 30 CFR 556.46(b), BOEM requires bidders to use EFT procedures for payment of one-fifth bonus bid deposits for WPA Sale 229, following the detailed instructions contained on the Payment Information Web page that may be found on the ONRR Web site at *http://www.onrr.gov/FM/PayInfo.htm.* Acceptance of a deposit does not constitute and will not be construed as acceptance of any bid on behalf of the United States. If a lease is awarded, ONRR requests that only one transaction be used for payment of the four-fifths bonus bid amount and the first year's rental.

Please Note: Certain bid submitters (i.e., those that are not currently an OCS mineral lease record title holder or designated operator or those that have ever defaulted on a one-fifth bonus bid payment (EFT or otherwise)) are required to guarantee (secure) their one-fifth bonus bid payment prior to the submission of bids. For those who must secure the EFT one-fifth bonus bid payment, the EFT instructions specify the requirements for each of the following four options: (1) Provide a third-party guarantee; (2) Amend bond coverage; (3) Provide a letter of credit; or (4) Provide a lump sum payment in advance via EFT.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this lease sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless: (1) The bidder has complied with all requirements of this Final NOS, including those set forth in the documents contained in the associated Final NOS Package and applicable regulations; (2) the bid is the highest valid bid; and (3) the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted that does not conform to the requirements of this Final Notice of Sale, OCSLA, and other applicable regulations may be returned to the bidder submitting that bid by the BOEM RD and not be considered for acceptance. The U.S. Department of Justice and the Federal Trade Commission will review the results of the lease sale for antitrust issues prior to the issuance of leases.

To ensure that the Federal Government receives a fair return for the conveyance of lease rights for this lease sale, BOEM will evaluate high bids in accordance with its bid adequacy procedures. A copy of current procedures, ''Modifications to the Bid Adequacy Procedures'' at 64 FR 37560 (July 12, 1999), can be obtained from the BOEM Gulf of Mexico Region Public Information Office or via the BOEM Gulf of Mexico Region Internet Web site at *http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Bid-Adequacy-Procedures.aspx.* In the existing bid adequacy procedures, water depth categories in the GOM are specified as: (1) less than 800 meters, and (2) 800 meters or more. Per 64 FR 37560, if different water depth categories are used for a GOM sale, they are specified in the Final Notice of Sale. For WPA Sale 229, the water depth categories are specified as: (1) Less than 400 meters, and (2) 400 meters or more.

Successful Bidders: BOEM requires each company awarded a lease to: (1) Execute all copies of the lease (Form BOEM–2005 (October 2011), as amended), (2) pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 218.155 and 556.47(f); and (3) satisfy the bonding requirements of 30 CFR part 556, subpart I, as amended.

Affirmative Action: BOEM requires that, prior to bidding, the bidder file Equal Opportunity Affirmative Action Representation Form BOEM–2032 (October 2011) and Equal Opportunity Compliance Report Certification Form BOEM–2033 (October 2011) in the BOEM GOM Region Adjudication Section. This certification is required by 41 CFR part 60 and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967. In any event, prior to the execution of any lease contract, both forms are required to be on file for the bidder in the GOM Region Adjudication Section.

Geophysical Data and Information Statement: Pursuant to 30 CFR 551.12, BOEM has a right to access geophysical data and information collected under a permit in the OCS.

Every bidder submitting a bid on a block in WPA Sale 229, or participating as a joint bidder in such a bid, must submit at the time of bid submission a Geophysical Data and Information Statement (GDIS) in a separate and sealed envelope, identifying all proprietary data, reprocessed speculative data and/or any Amplitude Versus Offset, Controlled Source Electromagnetic Surveys, Gravity or Magnetic data, or other information used as part of the decision to bid or participate in a bid on the block.

Please Note: A bidder must submit the GDIS even if its joint bidder or bidders on a specific block also have submitted a GDIS. Any speculative data that has been reprocessed externally or in-house is considered proprietary due to the proprietary processing and is no longer considered to be speculative. The GDIS should clearly state who did the reprocessing (e.g., an external company name or ''in-house''). In addition, the GDIS should clearly identify the data type (e.g., 2–D, 3–D, or 4–D; pre-stack or post-stack; and time or depth); areal extent (i.e., number of line miles for 2–D, or number of blocks for 3–D) and migration algorithm (e.g., Kirchhoff Migration, Wave Equation Migration, Reverse Migration, Reverse Time Migration) of the data, velocity models used, and other requested metadata. The statement

must also include the name, the phone number, and full address of a contact person, and an alternate, who are both *knowledgeable* about the information and data listed and *available* for 30 days post-sale; the processing company; the date processing was completed; owner of the original data set (who initially acquired the data); original data survey name; and permit number. Seismic survey information also should include the computer storage size to the nearest megabyte of each seismic data and velocity volumes used to evaluate the lease block in question. This will be used in estimating the reproduction costs for each data set during the requisition process prior to requesting data. BOEM reserves the right to query about alternate data sets, and to quality check and compare the listed and alternative data sets to determine which data set most closely meets the needs of the fair market value determination process.

A. The statement also must identify each block upon which the bidder submitted a bid or participated as a partner in a bid, but for which it did not use proprietary or reprocessed pre- or post-stack geophysical data and information as part of the decision to bid or to participate in the bid. The GDIS must be submitted even if no proprietary geophysical data and information were used in bid preparation for the block.

B. In the event a company supplies any type of data to BOEM, that company must meet the following requirements to qualify for reimbursement:

1. Companies must be registered with the System for Award Management (SAM), formerly known as the Central Contractor Registration (CCR). Your CCR username will not work in SAM. A new SAM User Account to register or update your entity's records is needed. The Web site for registering is: *https://www.sam.gov.*

2. Companies must be enrolled in the Department of Treasury's Internet Payment Platform (IPP) for electronic invoicing. The company must enroll at the IPP (*https://www.ipp.gov/*) if it has not already done so. Access will then be granted to use IPP for submitting requests for payment. When a request for payment is submitted, it must include the assigned Purchase Order Number on the request.

3. Companies must have a current On-line Representations and Certifications Application at: *https://www.sam.gov.*

Please Note: The GDIS Information Table can be submitted digitally on a CD or DVD as an Excel Spreadsheet. If you have any questions, please contact Dee Smith at (504) 736–2706 or John Johnson at (504) 736–2455.

Force Majeure: The BOEM RD has the discretion to change any date, time, and/or location specified in the Final NOS Package in case of a *force majeure* event that the BOEM RD deems may interfere with the carrying out of a fair and proper lease sale process. Such events may include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, and floods), wars, riots, acts of terrorism, fire, strikes, civil disorder, or other events of a similar nature. In case of such events, bidders should call (504) 736–0557 or access BOEM's Web site at *http://www.boem.gov* for information about any changes.

Dated: October 22, 2012.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2012–26396 Filed 10–25–12; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–842]

Certain Cameras and Mobile Devices, Related Software and Firmware, and Components Thereof and Products Containing the Same Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 11) terminating the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on May 2, 2012, based upon a complaint filed on behalf of HumanEyes Technologies, Ltd. of Jerusalem, Israel on March 28, 2012, and supplemented on April 18, 2012. 77 *FR* 26041 (May 2, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the sale for importation, importation, or sale after importation of certain cameras and mobile devices, related software and firmware, and components thereof and products containing the same that infringe of one or more of claims 1–3 and 22 of U.S. Patent No. 6,665,003 and claims 1–3, 10,20, 27–29, 36, and 37 of U.S. Patent No. 7,477,284. The notice of investigation named as respondents Sony Corporation of Tokyo, Japan; Sony Corporation of America of New York, New York; Sony Electronics Inc. of San Diego, California; Sony Mobile Communications AB of London, United Kingdom; and Sony Mobile Communications (USA) Inc. of Atlanta, Georgia.

On September 20, 2012, complainant HumanEyes Technologies filed an unopposed motion to terminate the investigation pursuant to Commission rule 210.21(a), 19 CFR 210.21(a), based on withdrawal of the complaint and supplemental complaint. On September 25, 2012, the Commission investigative attorney filed a response in support of the motion. On September 26, 2012, the administrative law judge issued the subject ID, granting the motion. No petitions for review were filed.

After considering the ID and the relevant portions of the record, the Commission has determined not to review the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: October 23, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–26408 Filed 10–25–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on September 20, 2012, pursuant to Section

6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, David Fergusson (Individual Member), Currie, Edinburgh, UNITED KINGDOM; and Christophe Jamain (Individual Member), Paris, Cedex, FRANCE, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 15, 2009 (74 FR 34364).

The last notification was filed with the Department on June 29, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 1, 2012 (77 FR 45656).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2012–26386 Filed 10–25–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Lead in Construction Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Lead in Construction Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before November 26, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The purpose of the Lead in Construction Standard and its information collection requirements is to protect workers from the adverse effects associated with occupational exposure to lead. Employers must monitor exposure to lead, provide medical surveillance, train employees about the hazards of lead, and establish and maintain accurate records of worker exposure to lead. Employers, workers, physicians, and the Government use these records to ensure exposure to lead does not harm workers.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0189. The current approval is scheduled to expire on October 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on August 10, 2012 (77 FR 47883).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0189. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Lead in Construction Standard.

OMB Control Number: 1218–0189.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 209,490.

Total Estimated Number of Responses: 9,169,370.

Total Estimated Annual Burden Hours: 1,460,430.

Total Estimated Annual Other Costs Burden: $60,093,015.

Dated: October 22, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–26411 Filed 10–25–12; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; 1,3-Butadiene Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational

Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''1,3-Butadiene Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before November 26, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The purpose of the 1,3-Butadiene Standard and its information collection requirements is to protect employees from the adverse health effects associated with occupational exposure to 1,3-Butadiene. In this regard, the 1,3-Butadiene Standard requires employers to monitor employee exposure to 1,3-Butadiene; develop and maintain compliance and exposure goal programs if employee exposures to 1,3-Butadiene are above the permissible exposure limits or action level established by the Standard; label respirator filter elements to indicate the date and time it is first installed on the respirator; establish medical surveillance programs to monitor employee health; and to provide employees with information about their exposures and the health effects of exposure to 1,3-Butadiene.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0170. The current approval is scheduled to expire on October 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on July 6, 2012 (77 FR 40087).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0170. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: The 1,3-Butadiene Standard.

OMB Control Number: 1218–0170.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 86.

Total Estimated Number of Responses: 3,650.

Total Estimated Annual Burden Hours: 916.

Total Estimated Annual Other Costs Burden: $105,912.

Dated: October 22, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–26413 Filed 10–25–12; 8:45 a.m.]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Lead in General Industry Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Lead in General Industry Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before November 26, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The purpose of the Lead in General Industry Standard and its information collection requirements is to protect workers from the adverse effects associated with occupational exposure to lead. Employers must monitor exposure to lead, provide medical surveillance, train employees about the hazards of lead,

and establish and maintain accurate records of worker exposure to lead. Employers, workers, physicians, and the Government use these records to ensure exposure to lead does not harm workers.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0092. The current approval is scheduled to expire on October 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on August 10, 2012 (77 FR 47882).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0092. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Lead in General Industry Standard.

OMB Control Number: 1218–0092.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 56,947.

Total Estimated Number of Responses: 3,807,618.

Total Estimated Annual Burden Hours: 1,105,397.

Total Estimated Annual Other Costs Burden: $143,191,684.

Dated: October 22, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–26412 Filed 10–25–12; 8:45 a.m.]

BILLING CODE 4510–26–P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Notice of Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. to 5:00 p.m., Friday, November 9, 2012.

PLACE: Westward Look Wyndham Grand Resort & Spa, 245 E. Ina Road, Tucson, Arizona 85704.

STATUS: This meeting will be open to the public, unless it is necessary for the Board to consider items in executive session.

MATTERS TO BE CONSIDERED: (1) Minutes of the May 22, 2012, Board of Trustees Meeting; (2) Udall Foundation Bylaws; (3) Parks in Focus Fund, Inc., Conflict of Interest Waiver; (4) Workplan of the Udall Center, Native Nations Institute, and Udall Archives; (5) Transfer of funds to the Native Nations Institute; (6) Draft report from the U.S. Department of the Interior's Inspector General regarding the Udall Foundation audit; and (7) Personnel matters.

PORTIONS OPEN TO THE PUBLIC: All agenda items except as noted below.

PORTIONS CLOSED TO THE PUBLIC: Executive session to hear the draft report from the U.S. Department of the Interior's Inspector General regarding the Udall Foundation audit and to review personnel matters.

CONTACT PERSON FOR MORE INFORMATION: Philip J. Lemanski, Deputy Executive Director for Finance and Education, 130 South Scott Avenue, Tucson, AZ 85701, (520) 901–8500.

Dated: October 19, 2012.

Philip J. Lemanski,

Deputy Executive Director for Finance and Education, Morris K. Udall and Stewart L. Udall Foundation, and Federal Register Liaison Officer.

[FR Doc. 2012–26281 Filed 10–25–12; 8:45 am]

BILLING CODE 6820–FN–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Electronic Records Archives (ACERA)

AGENCY: National Archives and Records Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Electronic Records Archives (ACERA). The committee serves as a deliberative body to advise the Archivist of the United States, on technical, mission, and service issues related to the Electronic Records Archives (ERA). This includes, but is not limited to, advising and making recommendations to the Archivist on issues related to the development, implementation and use of the ERA system. This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Electronic Records Archives Program at *era.program @nara.gov*. This meeting will be recorded for transcription purposes.

DATES: The meeting will be held on November 6, 2012, 1:00 p.m.–5:00 p.m. and November 7, 2012, 8:00 a.m.–12:00 p.m.

ADDRESSES: The Washington Room, 700 Pennsylvania Avenue NW., Washington, DC 20408–0001.

FOR FURTHER INFORMATION CONTACT: Kimberly Scates, Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, Maryland 20740 (301) 837–3176.

SUPPLEMENTARY INFORMATION:

Agenda

- Opening Remarks
- Approval of Minutes
- ERA Program Update
- Business Priorities
- Presidential Directive on Records Management
- Online Public Access
- Discussions: Encouraging development of automated tools for electronic records management, impact of big data, and benchmarking

Dated: October 24, 2012.

Patrice Little Murray,

Acting Committee Management Officer.

[FR Doc. 2012–26532 Filed 10–25–12; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Computing Communication Foundations; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Site Visit, Proposal Panel Review for Expeditions in Computing Program (#1192).

Date/Time: December 4, 2012, 7:00 p.m.–9:00 p.m.; December 5, 2012, 8:00 a.m.–8:00 p.m.; December 6, 2012, 8:30 a.m.–3:00 p.m.

Place: Georgia Institute of Technology, Atlanta, GA.

Type of Meeting: Partial Closed.

Contact Person: Ephraim Glinert, National Science Foundation, 4201 Wilson Boulevard, Room 1125, Arlington, VA 22230. Telephone: (703) 292–8930.

Purpose of Meeting: To assess the progress of the EIC Award, ''Collaborative Research: Computational Behavioral Science: Modeling, Analysis, and Visualization of Social and Communicative Behavior'', and to provide advise and recommendations concerning further NSF support for the Center.

Agenda

Tuesday, December 4, 2012

7:00 p.m. to 9:00 p.m.: Closed. Site Team and NSF Staff meets to discuss Site Visit materials, review process and charge.

Wednesday, December 5, 2012

8:00 a.m. to 1:00 p.m.: Open. Presentations by Awardee Institution, faculty staff and students, to Site Team and NSF Staff. Discussions and question and answer sessions.

1:00 p.m.–8:00 p.m.: Closed. Draft report on education and research activities.

Thursday, December 6, 2012

8:30 a.m.–noon: Open. Response presentations by Site Team and NSF Staff Awardee Institution faculty staff to. Discussions and question and answer sessions.

Noon to 3:00 p.m.: Closed. Complete written site visit report with preliminary recommendations.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 23, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–26363 Filed 10–25–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).

Date/Time: November 14, 2012; 1:00 p.m. to 5:30 p.m. (EST) November 15, 2012; 8:00 a.m. to 12:00 p.m. (EST).

Place: National Science Foundation, 4201 Wilson Boulevard, Stafford I, Room 375, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Patty Balanga, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292–8100.

Purpose of Meeting: To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF's business operations.

Agenda

November 14, 2012

Welcome/Introductions; BFA/OIRM Updates; NSF Workforce Challenges-Overview, BFA Strategic Priorities, Managing Workload, Performance Management.

November 15, 2012

Prepare for Meeting with NSF Deputy Director; Discussion with Deputy Director; NSF Workforce Challenges-Managing Workload-Program Viewpoint; Virtual Meetings; Environmental Scan: Discussion about External Factors and Upcoming Challenges and Opportunities Affecting NSF; Closing Discussion.

Dated: October 23, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–26364 Filed 10–25–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–10–ISFSI; ASLBP No. 12–922–01–ISFSI–MLR–BD01]

Northern States Power Company (Prairie Island Nuclear Generating Plant Independent Spent Fuel Storage Installation); Notice of Atomic Safety and Licensing Board Reconstitution

Pursuant to 10 CFR 2.313(c) and 2.321(b), the Atomic Safety and Licensing Board (Board) in the above-captioned *Prairie Island ISFSI* license renewal proceeding is hereby reconstituted by appointing Administrative Judge Nicholas G. Trikouros to serve on the Board in place of Administrative Judge Robert B. Matthews.

All correspondence, documents, and other materials shall continue to be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302 *et seq.*

Issued at Rockville, Maryland, October 22, 2012.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2012–26383 Filed 10–25–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0261]

Compliance With Information Request, Flooding Hazard Reevaluation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Japan Lessons-Learned Project Directorate guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is issuing draft Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD–ISG), JLD–ISG–2012–06, ''Guidance for Performing a Tsunami, Surge, or Seiche Hazard Assessment.'' This draft JLD–ISG provides guidance and clarification to assist nuclear power reactor applicants and licensees with performing a flooding hazard reanalysis in response to enclosure 2 of a March 12, 2012, information request.

DATES: Comments must be filed no later than November 26, 2012. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0261. You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0261. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

• *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. G. Edward Miller, Japan Lessons-Learned Project Directorate, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2481; email: *Ed.Miller@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0261 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0261.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The draft JLD–ISG–2012–06 is available under ADAMS Accession No. ML12271A036.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Interim Staff Guidance Web Site:* JLD–ISG documents are also available online under the ''Japan Lessons Learned'' heading at *http://www.nrc.gov/reading-rm/doc-collections/#int.*

B. Submitting Comments

Please include Docket ID NRC–2012–0261 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background Information

The NRC staff developed draft JLD–ISG–2012–06 to provide guidance and clarification to assist nuclear power licensees and holders of construction permits in active or deferred status with the performance of an integrated assessment. This ISG is being issued in draft form for public comment to involve the public in development of the implementation guidance.

On March 11, 2011, a magnitude 9.0 earthquake struck off the coast of the Japanese island of Honshu. The earthquake resulted in a large tsunami, estimated to have exceeded 14 meters (45 feet) in height that inundated the Fukushima Dai-ichi nuclear power plant site. The earthquake and tsunami produced widespread devastation across northeastern Japan and significantly affected the infrastructure and industry in the northeastern coastal areas of Japan. When the earthquake occurred, Fukushima Dai-ichi Units 1, 2, and 3, were in operation and Units 4, 5, and 6, were shut down for routine refueling and maintenance activities. The Unit 4 reactor fuel was offloaded to the Unit 4 spent fuel pool (SFP). Following the earthquake, the three operating units automatically shut down and offsite power was lost to the entire facility. The emergency diesel generators started at all six units providing alternating current (ac) electrical power to critical systems at each unit. The facility response to the earthquake appears to have been normal. Approximately 40 minutes following the earthquake and shutdown of the operating units, however, the first large tsunami wave inundated the site, followed by additional waves. The tsunami caused extensive damage to site facilities and resulted in a complete loss of all ac electrical power at Units 1 through 5, a condition known as station blackout. In addition, all direct current electrical power was lost early in the event on Units 1 and 2 and after some period of time at the other units. Unit 6 retained the function of one air-cooled EDG; Despite their actions, the operators lost the ability to cool the fuel in the Unit 1 reactor after several hours, in the Unit 2 reactor after about 70 hours, and in the Unit 3 reactor after about 36 hours, resulting in damage to the nuclear fuel shortly after the loss of cooling capabilities.

Following the events at the Fukushima Dai-ichi nuclear power plant, the NRC established a senior-level agency task force referred to as the Near-Term Task Force (NTTF). The NTTF was tasked with conducting a systematic and methodical review of the NRC's regulations and processes, and determining if the agency should make additional improvements to these programs in light of the events at Fukushima Dai-ichi. As a result of this review, the NTTF developed a comprehensive set of recommendations, documented in SECY–11–0093, ''Near-Term Report and Recommendations for Agency Actions Following the Events in Japan,'' dated July 12, 2011 (ADAMS Accession No. ML11186A950). These recommendations were enhanced by the NRC staff following interactions with stakeholders. Documentation of the staff's efforts is contained in SECY–11–0124, ''Recommended Actions to be Taken Without Delay from the Near-Term Task Force Report,'' dated September 9, 2011 (ADAMS Accession No. ML11245A158) and SECY–11–0137, ''Prioritization of Recommended Actions to be Taken in Response to Fukushima Lessons Learned,'' dated October 3, 2011 (ADAMS Accession No. ML11272A111).

As directed by the Commission's Staff Requirement Memorandum (SRM) for SECY–11–0093 (ADAMS Accession No. ML112310021), the NRC staff reviewed the NTTF recommendations within the context of the NRC's existing regulatory framework and considered the various regulatory vehicles available to the NRC to implement the recommendations. SECY–11–0124 and SECY–11–0137 established the staff's prioritization of the recommendations based upon the potential for each recommendation to enhance safety.

As part of the SRM for SECY–11–0124, dated October 18, 2011, the

Commission approved the staff's proposed actions, including the development of three information requests under 10 CFR 50.54(f). The information collected would be used to support the NRC staff's evaluation of whether further regulatory action was needed in the areas of seismic and flooding design, and emergency preparedness.

In addition to Commission direction, the Consolidated Appropriations Act, Public Law 112–074, was signed into law on December 23, 2011. Section 402 of the law directs the NRC to require licensees to reevaluate their design basis for external hazards.

In response to the aforementioned Commission and Congressional direction, the NRC issued a request for information to all power reactor licensees and holders of construction permits under 10 CFR part 50 on March 12, 2012. The March 12, 2012, letter includes a request that licensees reevaluate flooding hazards at nuclear power plant sites using updated flooding hazard information and present day regulatory guidance and methodologies. The letter also requests the comparison of the reevaluated hazard to the current design basis at the site for each potential flood mechanism. If the reevaluated flood hazard at a site is not bounded by the current design basis, licensees are requested to perform an Integrated Assessment. The Integrated Assessment will evaluate the total plant response to the flood hazard, considering multiple and diverse capabilities such as physical barriers, temporary protective measures, and operational procedures. The NRC staff will review the licensees' responses to this request for information and determine whether regulatory actions are necessary to provide additional protection against flooding.

Proposed Action

By this action, the NRC is requesting public comments on draft JLD–ISG–2012–06. This draft JLD–ISG provides guidance and clarification to assist nuclear power reactors applicants and licensees with performing a flooding hazard reanalysis in response to enclosure 2 of the information request. The NRC staff will make a final determination regarding issuance of the JLD–ISG after it considers any public comments received in response to this request.

Dated at Rockville, Maryland, this 22nd day of October 2012.

For the Nuclear Regulatory Commission.

David L. Skeen,

Director, Japan Lessons-Learned Project Directorate, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–26375 Filed 10–25–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0002]

Notice of Sunshine Act Meetings

AGENCY: Nuclear Regulatory Commission.

DATES: Week of October 29, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL ITEMS TO BE CONSIDERED:

Week of October 29, 2012

Tuesday, October 30, 2012

8:55 a.m.—Affirmation Session (Public Meeting) (Tentative). *Southern California Edison Co.* (San Onofre Nuclear Generating Station), Docket Nos. 50–361 and 50–362–CAL, Petition to Intervene, Request for Hearing, and Stay Application (June 18, 2012) (Tentative).

This meeting will be Web cast live at the Web address—*www.nrc.gov.*

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/about-nrc/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by email at *william.dosch@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: October 23, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–26509 Filed 10–24–12; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339; NRC–2012–0258; License Nos.: NPF–4 and NPF–7]

Virginia Electric and Power Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Partial Director's Decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is giving notice that the Director of the Office of Nuclear Reactor Regulation has issued a partial Director's Decision with regard to a petition dated October 20, 2011, filed by Paul Gunter et al., herein referred to as ''the petitioners.''

ADDRESSES: Please refer to Docket ID NRC–2012–0258 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0258. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at

the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jon Thompson, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1119; email: *jon.thompson@nrc.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Director of the Office of Nuclear Reactor Regulation has issued a partial Director's Decision with regard to a petition dated October 20, 2011 (ADAMS Accession No. ML11293A116), filed by the petitioners. The petition was supplemented on November 2, 2011 (ADAMS Accession No. ML11308A027) and December 15, 2011 (ADAMS Accession No. ML12060A197). The petition concerns the operation of the North Anna Power Station, Units 1 and 2 (North Anna 1 and 2), by the Virginia Electric and Power Company (VEPCO or the licensee). The petition requested that the NRC suspend the operating licenses for North Anna 1 and 2, until the completion of a set of activities described in the petition. The petitioner also requested that a public meeting be held to discuss this matter in the Washington, DC area.

As the basis for the October 20, 2011, request, the petitioner raised several concerns, of which 12 were accepted for review by the NRC staff by letter dated March 16, 2012 (ADAMS Accession No. ML12060A090). These summarized as follows:

(1) Prior to the approval of restart for North Anna 1 and 2, after the earthquake of August 23, 2011, Virginia Electric and Power Company (the licensee) should be required to obtain a license amendment from the NRC that reanalyzes and reevaluates the plant's design basis for earthquakes and for associated necessary retrofits.

(2) Prior to the approval of restart for North Anna 1 and 2, after the earthquake of August 23, 2011, the licensee should be required to ensure that North Anna 1 and 2, are subjected to thorough inspections of the same level and rigor.

(3) The licensee should be required to reanalyze and reevaluate the North Anna Independent Spent Fuel Storage Installation (ISFSI) due to damage caused by the earthquake of August 23, 2011, and ensure that no threat is posed to public health and safety by its operation.

(4) The licensee should ensure the reliability and accuracy of the seismic instrumentation at North Anna 1 and 2.

(5) The NRC staff made hasty decisions about the restart of North Anna 1 and 2, and gave priority to economic considerations. The long-term action plan was not even complete before the NRC staff gave authorization to restart.

(6) Regulatory commitments are an inadequate regulatory tool for ensuring that the critical long-term tasks identified in the NRC staff's confirmatory action letter dated November 11, 2011, are completed.

(7) The licensee needs to address the possibility of both boildown and rapid draindown events at the North Anna 1 and 2, spent fuel pool.

(8) The long-term storage of spent fuel in the spent fuel pool at North Anna 1 and 2, and at the North Anna ISFSI poses challenges to the public health and safety.

(9) ''Hardened on-site storage'' strategies for spent fuel should be used at North Anna 1 and 2.

(10) Concerns exist about the response of North Anna 1 and 2, to a prolonged station blackout.

(11) The current emergency evacuation plans for North Anna 1 and 2, need to be revised to reflect the possible need to evacuate a larger area than that identified in the current emergency planning zone.

(12) Concerns exist about damage to the structural integrity of the spent fuel pool structure at North Anna 1 and 2, as represented on pages 41 and 42 of the NRC staff's technical evaluation for the restart of North Anna 1 and 2, dated November 11, 2011.

On December 12, 2012 and February 2, 2012, the petitioners and the licensee met with the NRC staff's petition review board (meeting transcripts under ADAMS Accession Nos. ML12033A025 and ML12047A240), regarding the petition. These meetings gave the petitioner and the licensee an opportunity to provide additional information and to clarify issues raised in the petition.

The NRC staff sent a copy of the proposed partial Director's Decision to the petitioners and to the licensee for comment on July 10, 2012 (ADAMS Accession Nos. ML12165A208 and ML12165A209, respectively). The petitioners responded with comments on July 31, 2012 (ADAMS Accession Nos. ML12261A228 and ML12258A012), and the licensee responded on July 30, 2012 (ADAMS Accession No. ML12219A120), that it did not have comments. The comments by the petitioners and the NRC staff's response are included in an attachment to the partial Director's Decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the request to suspend the operating licenses for North Anna 1 and 2, until the completion of a set of activities described in the petition, be partially granted, partially denied, and partially deferred. The reasons for this decision are explained in the partial Director's Decision pursuant to Title 10 of *Code of Federal Regulations* (10 CFR 2.206), DD–12–02, the complete text of which is available in ADAMS under Accession No. ML12262A158.

A copy of the partial Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 19th day of October 2012.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–26365 Filed 10–25–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

Notice of Sunshine Act Meetings

TIME AND DATE: Wednesday, November 7, 2012, at 11 a.m.

PLACE: Commission Hearing Room, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public. The open session will be audiocast. The audiocast may be accessed via the Commission's Web site at *http://www.prc.gov.* A period for public comment will be offered following consideration of the last numbered item in the open session.

MATTERS TO BE CONSIDERED: The agenda for the Commission's November 7, 2012 meeting includes the items identified below.

PORTIONS OPEN TO THE PUBLIC:

1. Report on legislative activities.
2. Report on communications with the public.
3. Report from the Office of General Counsel on the status of Commission dockets.
4. Report from the Office of Accountability and Compliance.

5. Report on international activities.
6. Report from the Office of the Secretary and Administration.
7. Presentation to Commissioners on the use of the Postal Service to support Census Bureau programs by a representative of the Bureau of the Census.

Chairman's public comment period.

PORTION CLOSED TO THE PUBLIC:

8. Discussion of pending litigation.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, access for handicapped or disabled persons, the audiocast, or similar matters).

By the Commission.

Dated: October 23, 2012.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–26473 Filed 10–24–12; 11:15 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30236; File No. 812–14050]

Neuberger Berman Alternative Funds, et al.; Notice of Application

October 22, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act, and under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act.

SUMMARY OF THE APPLICATION: The requested order would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies and unit investment trusts (''UITs'') that are within and outside the same group of investment companies as the acquiring investment companies, and (b) permit funds of funds relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: Neuberger Berman Alternative Funds and Neuberger Berman Equity Funds (the ''Trusts'') and Neuberger Berman Management LLC (the ''Adviser'').

FILING DATES: The application was filed on June 29, 2012, and amended on October 19, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 16, 2012, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, 605 Third Avenue, 2d Floor, New York, NY 10158–0180.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 551–6813 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. Each Trust is an open-end management investment company registered under the Act and organized as a Delaware statutory trust. Each Trust is comprised of separate series that pursue distinct investment objectives and strategies.[1] The Adviser, a Delaware limited liability company and an indirect subsidiary of Neuberger Berman Group LLC, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser for each of the Funds.

2. Applicants request an order to permit (a) a Fund that operates as a ''fund of funds'' (each, a ''Fund of Funds'') to acquire shares of (i) registered open-end management investment companies that are not part of the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds (''Unaffiliated Investment Companies'') and UITs that are not part of the same group of investment companies as the Fund of Funds (''Unaffiliated Trusts,'' and together with the Unaffiliated Investment Companies, ''Unaffiliated Funds'')[2] or (ii) registered open-end management companies that are part of the same group of investment companies as the Fund of Funds (''Affiliated Investment Companies'') or UITs that are part of the same group of investment companies as the Fund of Funds (''Affiliated Trusts,'' and together with the Affiliated Investment Companies, the ''Affiliated Funds''; the Affiliated Funds and Unaffiliated Funds together are the ''Underlying Funds'') and (b) each Unaffiliated Investment Company and Affiliated Investment Company, any principal underwriter for the Unaffiliated Investment Company or Affiliated Investment Company, and any broker or dealer registered under the Securities Exchange Act of 1934 (''Broker'') to sell shares of the Unaffiliated Investment Company or Affiliated Investment Company to the Fund of Funds.[3] Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.

3. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the Act to permit any existing or future Fund that relies on section 12(d)(1)(G) of the Act (''Same Group Investing Fund'') and that otherwise complies with rule 12d1–2 to

[1] Applicants request that the relief apply to each existing and future series of the Trusts and to each existing and future registered open-end management investment company or series thereof (each a ''Fund'' and collectively, ''Funds'') that is advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser and which is part of the same group of investment companies (as defined in section 12(d)(1)(G)(ii) of the Act) as the Trusts.

[2] Certain of the Unaffiliated Funds may be registered under the Act as either UITs or open-end management investment companies and have received exemptive relief to permit their shares to be listed and traded on a national securities exchange at negotiated prices (''ETFs'').

[3] Every existing entity that currently intends to rely on the requested order is named as an applicant. Any existing or future entity that relies on the order in the future will comply with the terms and conditions of the application.

also invest, to the extent consistent with its investment objective, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').

Applicants' Legal Analysis

Investments in Underlying Funds

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's total outstanding voting stock, or if the sale will cause more than 10% of the acquired company's total outstanding voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) of the Act to permit a Fund of Funds to acquire shares of the Underlying Funds in excess of the limits in section 12(d)(1)(A), and an Unaffiliated Investment Company or Affiliated Investment Company, any principal underwriter for the Unaffiliated Investment Company or Affiliated Investment Company, and any Broker to sell shares of an Unaffiliated Investment Company or Affiliated Investment Company to a Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.

3. Applicants state that the terms and conditions of the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants believe that the proposed arrangement will not result in the exercise of undue influence by a Fund of Funds or a Fund of Funds Affiliate over the Unaffiliated Funds.[4] To limit the control that a Fund of Funds may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser, any person controlling, controlled by, or under common control with the Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Adviser or any person controlling, controlled by, or under common control with the Adviser (the ''Advisory Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the Act to a Fund of Funds (''Subadviser''), any person controlling, controlled by or under common control with the Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Subadviser or any person controlling, controlled by or under common control with the Subadviser (the ''Subadvisory Group''). Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, Subadviser, or employee of the Fund of Funds, or a person of which any such officer, director, trustee, member of an advisory board, investment adviser, Subadviser, or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the Act.

5. To further assure that an Unaffiliated Investment Company understands the implications of an investment by a Fund of Funds under the requested order, prior to a Fund of Funds' investment in the shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that their boards of trustees (''Boards'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds.[5]

6. Applicants state that they do not believe that the proposed arrangement will involve excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' (within the meaning of section 2(a)(19) of the Act) (''Independent Trustees''), will find that the advisory fees charged under investment advisory or management contract(s) are based on services provided that will be in addition to, rather than duplicative of, the services provided under such advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any sales charges and/or service fees

[4] A ''Fund of Funds Affiliate'' is the Adviser, any Subadviser (as defined below), promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by, or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser, sponsor, promoter, or principal underwriter of an Unaffiliated Fund, as well as any person controlling, controlled by, or under common control with any of those entities.

[5] An Unaffiliated Investment Company, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds.

charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in Rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830'').[6]

7. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except in certain circumstances identified in condition 11 below.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that a Fund of Funds and the Affiliated Funds might be deemed to be under common control of the Adviser and therefore affiliated persons of one another. Applicants also state that a Fund of Funds and the Unaffiliated Funds might be deemed to be affiliated persons of one another if the Fund of Funds acquires 5% or more of an Unaffiliated Fund's outstanding voting securities. In light of these and other possible affiliations, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from a Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) The terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act or rule under the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act.[7] Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of the Underlying Fund.[8] Applicants state that the proposed transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act.

Other Investments by Same Group Investing Funds

1. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act of 1934 (''Exchange Act'') or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

2. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered UIT that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

3. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1–2 under the Act, but for the fact that a Same Group Investing Fund may invest a portion of its assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Same Group Investing Funds to invest in Other Investments. Applicants assert that permitting Same Group Investing Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

4. Consistent with its fiduciary obligations under the Act, the Board of each Same Group Investing Fund will review the advisory fees charged by the Same Group Investing Fund's investment adviser to ensure that they are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Same Group Investing Fund may invest.

Applicants' Conditions

Investments by Funds of Funds in Underlying Funds

Applicants agree that the relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of an Advisory Group will not control (individually or in the

[6] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

[7] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by a Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgement.

[8] To the extent purchases and sales of shares of an ETF occur in the secondary market (and not through principal transactions directly between a Fund of Funds and an ETF), relief from section 17(a) would not be necessary. The requested relief is intended to cover, however, transactions directly between ETFs and a Fund of Funds. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds, because an investment adviser to the ETF, or an entity controlling, controlled by, or under common control with the investment adviser to the ETF, is also an investment adviser to the Fund of Funds.

aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Subadvisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Fund, the Advisory Group or a Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of the Unaffiliated Fund, then the Advisory Group or the Subadvisory Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Subadvisory Group with respect to an Unaffiliated Fund for which the Subadviser or a person controlling, controlled by, or under common control with the Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in shares of an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to assure that its Adviser and any Subadviser(s) to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s) or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things, (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth the: (a) Party from whom the securities were acquired, (b) identity of the underwriting syndicate's members, (c) terms of the purchase, and (d) information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under such advisory contract are based on services provided that are in addition to, rather than duplicative of, services

provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding and the basis upon which the finding was made will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Subadviser, or an affiliated person of the Subadviser, from an Unaffiliated Fund, other than any advisory fees paid to the Subadviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Subadviser. In the event that the Subadviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

12. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to fund of funds set forth in NASD Conduct Rule 2830.

Other Investments by Same Group Investing Funds

Applicants agree that the relief to permit Same Group Investing Funds to invest in Other Investments shall be subject to the following condition:

13. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Same Group Investing Fund from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26341 Filed 10–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30237; 812–13757]

Legg Mason ETF Trust, et al.; Notice of Application

October 22, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Legg Mason ETF Trust (the ''Trust''), Legg Mason Partners Fund Advisor, LLC (the ''Adviser''), and Legg Mason Investor Services, LLC (''LMIS'').

SUMMARY OF APPLICATION: Applicants request an order that permits: (a) Actively-managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

FILING DATES: The application was filed on February 22, 2010, and amended on July 7, 2010, April 15, 2011, May 3, 2012, August 22, 2012, and October 17, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 15, 2012, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, 620 Eighth Avenue, New York, NY 10018.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817 or Janet M. Grossnickle, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as a Maryland statutory trust and is registered as an open-end management investment company under the Act. The Trust will initially offer three actively-managed investment series: Legg Mason Western Asset Ultra-Short Duration ETF, Legg Mason Capital Management Systematic Equity Fund and Legg Mason Equal-Weighted Equity Sector Fund (the ''Initial Funds''). The investment objective of Legg Mason Western Asset Ultra-Short Duration Fund will be to seek current income. The investment objective of the Legg Mason Capital Management Systematic Equity Fund and Legg Mason Equal Weighted Equity Sector Fund will be to seek long term growth of capital.

2. Applicants request that the order apply to the Initial Funds and any future series of the Trust or of any other open-end management companies that may use active management investment strategies (''Future Funds''). Any Future Fund will (a) be advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser, and (b) comply with the terms and conditions of the application.[1] The Initial Funds and Future Funds together are the ''Funds.'' Each Fund will consist of a portfolio of securities, including fixed income securities and/or equity securities. (''Portfolio Securities'').[2] Funds may invest in ''Depositary Receipts.'' A Fund will not invest in any Depositary Receipts that the Adviser deems to be illiquid or for which pricing information is not readily available.[3] Each Fund will operate as an actively managed exchange-traded fund (''ETF''). The Future Funds may invest in other open-end and/or closed end investment companies and/or ETFs.

3. The Adviser, a Delaware limited liability company, will be the investment adviser to each Fund. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Adviser may enter sub-advisory agreements with one or more investment advisers, each of which will serve as sub-advisers to a Fund (each, a ''Sub-Adviser''). Each Sub-Adviser will be registered under the Advisers Act or exempt from registration. The Trust will enter into a distribution agreement with one or more distributors, including LMIS, a Delaware limited liability company. LMIS will be the distributor for the Initial Funds. Each distributor will be a broker or dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'' and such persons registered under the Exchange Act, a ''Broker'') and will serve as principal underwriter and distributor (''Distributor'') of one or more Funds. Applicants request that the order also apply to any other Distributor to the Funds that complies with the terms and conditions of the application.

4. Applicants also request that any exemption under section 12(d)(1)(J) of the Act from sections 12(d)(1)(A) and (B) apply to: (i) Any Fund that is currently or subsequently part of the same ''group of investment companies'' as a Fund within the meaning of section 12(d)(1)(G)(ii) of the Act; (ii) any principal underwriter for the Fund; (iii) any Brokers selling Shares of a Fund to a Fund of Funds (as defined below); and (iv) each management investment company or unit investment trust registered under the Act that is not part of the same ''group of investment companies'' as the Funds within the meaning of section 12(d)(1)(G)(ii) of the Act and that enters into a FOF Participation Agreement (as defined below) with a Fund (such management investment companies, ''Investing Management Companies,'' such unit investment trusts, ''Investing Trusts,'' and Investing Management Companies and Investing Trusts together, ''Fund of Funds''). Fund of Funds do not include the Funds.

5. Applicants anticipate that a Creation Unit will consist of at least 25,000 Shares and that the price of a Share will range from $20 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Distributor and the Trust (''Authorized Participant'') with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A Broker or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation, a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (b) a participant in the DTC (such participant, ''DTC Participant'').

6. The Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[4] On any given Business Day[5] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[6] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[7] or (c) TBA Transactions,[8] short positions and other positions that cannot be transferred in kind[9] will be excluded from the Creation Basket.[10] If there is a difference between the net asset value (''NAV'') attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

7. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all

[1] All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application. A Fund of Funds (as defined below) may rely on the order only to invest in a Fund that is not a ''Fund of Funds ETF'' and not in any other registered investment company or Fund of Funds ETF. A ''Fund of Funds ETF'' is a Fund which invests in other open-end and/or closed-end investment companies and/or exchange-traded funds.

[2] Neither the Initial Funds nor any Future Fund will invest in options contracts, futures contracts or swap agreements.

[3] Depositary Receipts are typically issued by a financial institution, a ''depositary'', and evidence ownership in a security or pool of securities that have been deposited with the depositary. No affiliated persons of applicants, the Advisers, or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[5] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each a ''Business Day'').

[6] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for that Business Day.

[7] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[8] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

[9] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[10] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Cash Amount (as defined below).

purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Funds holding securities traded on global markets (''Foreign Funds''), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[11]

8. Each Business Day, before the open of trading on a national securities exchange as defined in section 2(a)(26) of the Act (''Exchange'') on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. An Exchange will disseminate every 15 seconds throughout the trading day an amount representing, on a per Share basis, the sum of the current value of the Deposit Instruments and the estimated Cash Amount.

9. An investor purchasing or redeeming a Creation Unit from a Fund may be charged a fee (''Transaction Fee'') to protect existing shareholders of the Funds from the dilutive costs associated with the purchase and redemption of Creation Units.[12] All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus (''Prospectus'') to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

10. Shares will be listed and traded at negotiated prices on an Exchange and traded in the secondary market. Applicants expect that exchange specialists and market makers (collectively, ''Market Makers'') will be assigned to Shares. The price of Shares trading on the Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on an Exchange will be subject to customary brokerage commissions and charges.

11. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[13] Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[14] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

12. Shares will not be individually redeemable and owners of Shares may acquire Shares from a Fund or tender shares for redemption to the Fund in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant. As discussed above, redemptions of Creation Units will generally be made on an in-kind basis, subject to certain specified exceptions under which redemptions may be made in whole or in part on a cash basis, and will be subject to a Transaction Fee.

13. Neither the Trust nor any Fund will be marketed or otherwise held out as a ''mutual fund.'' Instead, each Fund will be marketed as an ''actively-managed exchange-traded fund.'' All marketing materials that describe the features of obtaining, buying or selling Creation Units, or Shares traded on the Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire Shares from a Fund and tender those Shares for redemption to a Fund in Creation Units only.

14. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include the Prospectus and additional quantitative information updated on a daily basis, including on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Securities and other assets held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[15]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under

[11] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[12] Where a Fund permits an in-kind purchaser to substitute cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments.

[13] If Shares are listed on NYSE Arca, Nasdaq or a similar electronic Exchange, one or more member firms of that Exchange will act as Market Maker and maintain a market for Shares trading on the Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person, or an affiliated person of an affiliated person, of the Funds, except within section 2(a)(3)(A) or (C) of the Act due to ownership of Shares, as described below.

[14] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

[15] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Trust to register as an open-end management investment company and redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) Prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from Brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains immaterial.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of Creation Units of Foreign Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 15 calendar days.[16] Applicants therefore request relief from section 22(e) in order to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction, up to a maximum of 15 calendar days, in the principal local markets where transactions in the Portfolio Securities of each Foreign Fund customarily clear and settle but in all cases no later than 15 calendar days following the tender of a Creation Unit.

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 15 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Foreign Fund. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations or redemptions in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment

[16] In the past, settlement in certain countries, including Russia, has extended to 15 calendar days.

company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request relief to permit Fund of Funds to acquire Shares in excess of the limits in section 12(d)(l)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to a Fund of Funds in excess of the limits in section 12(d)(l)(B) of the Act. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1) which include concerns about undue influence, excessive layering of fees and overly complex structures.

11. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company (''Fund of Funds Adviser''), sponsor of an Investing Trust (''Sponsor''), any person controlling, controlled by, or under common control with the Fund of Funds Adviser or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(l) or 3(c)(7) of the Act that is advised or sponsored by the Fund of Funds Adviser, the Sponsor, or any person controlling, controlled by, or under common control with the Fund of Funds Adviser or Sponsor (''Fund of Fund's Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any sub-adviser to an Investing Management Company (''Fund of Funds Sub-Adviser''), any person controlling, controlled by, or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(l) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds' Sub-Advisory Group'').

12. Applicants propose a condition to ensure that no Fund of Funds or Fund of Funds Affiliate [17] (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

13. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees (''Board'') of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. Applicants also state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[18]

14. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

15. To ensure that a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds must enter into an agreement with the respective Funds (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgment from the Fund of Funds that it may rely on the order only to invest in a Fund that is not a Fund of Funds ETF and not in any other investment company or Fund of Funds ETF.

Sections 17(a)(1) and (2) of the Act

16. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser (an ''Affiliated Fund'').

17. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely

[17] A ''Fund of Funds Affiliate'' is any Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter and principal underwriter of a Fund of Funds, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

[18] Any references to NASD Conduct Rule 2830 include any successor or replacement rule to NASD Conduct Rule 2830 that may be adopted by the Financial Industry Regulatory Authority.

by virtue of: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[19] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Fund of Funds of which the Funds are an affiliated person or a second-tier affiliate.[20]

18. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Absent the unusual circumstances discussed in the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond pro rata to the Fund's Portfolio Securities. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Securities currently held by the relevant Funds. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

19. Applicants also submit that the sale of Shares to and redemption of Shares from a Fund of Funds meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[21] Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. Actively-Managed Exchange-Traded Fund Relief

1. The requested order, other than the section 12(d)(1) relief, will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed ETFs.

2. As long as a Fund operates in reliance on the requested order, the Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of the Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or Bid/Ask Price of the Shares, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. No Adviser or Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. On each Business Day, before the commencement of trading in Shares on the Fund's listing Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Securities and other assets held by the Fund that will form the basis of the Fund's calculation of NAV at the end of the Business Day.

B. Section 12(d)(1) Relief

1. The members of the Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund for which the Fund of Funds Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the non-interested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and any Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the non-interested Board members, will determine that any consideration paid by the Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

[19] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the Funds is also an investment adviser to a Fund of Funds.

[20] Although applicants believe that most Fund of Funds will purchase and sell Shares in the secondary market, a Fund of Funds might seek to transact in Shares directly with a Fund.

[21] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of each Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), a Fund of Funds will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the non-interested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that the Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund to acquire securities of one or more investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26344 Filed 10–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68076; File No. SR–FINRA–2012–047]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a TRACE Pilot Program in FINRA Rule 6730(e)(4)

October 22, 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 October 12, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend the pilot program in FINRA Rule 6730(e)(4) to October 25, 2013. The pilot program exempts from reporting to the Trade Reporting and Compliance Engine (''TRACE'') transactions in TRACE-Eligible Securities that are executed on a facility of the New York Stock Exchange (''NYSE'') in accordance with NYSE Rules 1400, 1401 and 86 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The pilot program set forth in FINRA Rule 6730(e)(4) exempts from reporting to TRACE transactions in TRACE-Eligible Securities that are executed on a facility of NYSE in accordance with NYSE Rules 1400, 1401 and 86 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE, provided that a data sharing agreement between FINRA and NYSE related to transactions covered by the Rule remains in effect.[4] The pilot program is currently scheduled to expire on October 25, 2012.

FINRA is proposing to extend the pilot program until October 25, 2013 to continue to exempt transactions in TRACE-Eligible Securities on an NYSE facility (and as to which all the other conditions of the exemption are met) from the TRACE reporting requirements. The extension will provide additional time to analyze the impact of the exemption. Without the extension, members would be subject to both FINRA's and NYSE's trade reporting requirements with respect to these securities. The proposed change thus serves to eliminate duplicative reporting requirements for these securities and the resulting compliance costs and burdens.

The proposed rule change would not expand or otherwise change the pilot. FINRA notes that the success of the pilot program remains dependent on FINRA's ability to continue to effectively conduct surveillance on debt trading in the over-the-counter market. In this regard, the parties continue to share data related to the transactions covered by FINRA Rule 6730(e)(4) as required by the Rule. However, FINRA supports a regulatory construct that, in the future, consolidates all last sale transaction information to provide better price transparency and a more efficient means to engage in market surveillance of TRACE-Eligible Securities transactions. The proposed extension would allow the pilot program to continue to operate without interruption while FINRA and NYSE continue to assess the effect of the exemption and issues regarding the consolidation of market data, market surveillance and price transparency.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[5] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the extension of the exemptive provision protects investors and the public because transactions will be reported, transparency will be maintained for these transactions, and NYSE's agreement to share data with FINRA allows FINRA to continue to conduct surveillance in the debt securities market. In addition, extending the exemptive provision permits members that are subject to both FINRA's and NYSE's trade reporting requirements to avoid a duplicative regulatory structure and the increased costs that may be incurred as a result of duplicative requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 54768 (November 16, 2006), 71 FR 67673 (November 22, 2006) (Order Approving Proposed Rule Change; File No. SR–NASD–2006–110) (pilot program in FINRA Rule 6730(e)(4), subject to the execution of a data sharing agreement addressing relevant transactions, became effective on January 9, 2007); Securities Exchange Act Release No. 59216 (January 8, 2009), 74 FR 2147 (January 14, 2009) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2008–065) (pilot program extended to January 7, 2011); Securities Exchange Act Release No. 63673 (January 7, 2011), 76 FR 2739 (January 14, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2011–002) (pilot program extended to July 8, 2011); Securities Exchange Act Release No. 64665 (June 14, 2011), 76 FR 35933 (June 20, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2011–025) (pilot program extended to January 27, 2012); Securities Exchange Act Release No. 66018 (December 21, 2011), 76 FR 81549 (December 28, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–FINRA–2011–072) (pilot program extended to October 26, 2012).

[5] 15 U.S.C. 78*o*–3(b)(6).

19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

FINRA has requested that the Commission waive the 30-day operative delay so that the pilot program, which exempts transactions in TRACE-Eligible Securities on an NYSE facility (and as to which all the other conditions of the exemption are met) from the TRACE reporting requirements, remains in effect without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such action will allow the benefits of the pilot program to continue without interruption. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[8]

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 (*h http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–FINRA–2012–047.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–047 and should be submitted on or before November 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26339 Filed 10–25–12; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

[8] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68081; File No. SR–MSRB–2012–07]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving a Proposed Rule Change To Amend the Real-Time Transaction Reporting System Information System and Subscription Service

October 22, 2012.

I. Introduction

On August 24, 2012, the Municipal Securities Rulemaking Board (''MSRB'') 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 enhance the transaction data publicly disseminated from the Real-Time Transaction Reporting System (''RTRS'') information system. The proposed rule change was published for comment in the **Federal Register** on September 12, 2012.[3] The Commission received three comment letters regarding the proposed rule change.[4] This order approves the proposed rule change.

II. Description of the Proposal

RTRS is a facility for the collection and dissemination of information about transactions occurring in the municipal securities markets. MSRB Rule G–14 requires brokers, dealers, and municipal securities dealers (collectively, ''dealers'') to report all transactions in municipal securities to RTRS within fifteen minutes of the time of trade, with limited exceptions. The MSRB makes transaction information available to the public through subscription services as well as for free on the Electronic Municipal Market Access (''EMMA®'') Web site.

Currently, transaction information disseminated from RTRS includes the exact par value on all transactions with a par value of $1 million or less, but includes an indicator of ''1MM+'' in place of the exact par value on transactions where the par value is greater than $1 million. The exact par value of transactions having a par value greater than $1 million is disseminated from RTRS five business days later. The MSRB implemented this approach in response to concerns that, given the prevalence of thinly traded securities in the municipal securities market, it is sometimes possible to identify institutional investors and dealers by the exact par value included on trade reports.[5]

The MSRB now proposes to include in transaction data publicly disseminated from RTRS in real-time

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 67792 (September 6, 2012), 77 FR 56244 (SR–MSRB–2012–07) (''Notice'').

[4] *See* Letters from Dorothy Donohue, Deputy General Counsel–Securities Regulation, Investment Company Institute, to Elizabeth M. Murphy, Secretary, Commission, dated September 28, 2012; Michael Nicholas, Chief Executive Officer, Bond Dealers of America, to Elizabeth M. Murphy, Secretary, Commission, dated October 3, 2012; and Michael Decker, Managing Director and Co-Head of Municipal Securities, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, Commission, dated October 3, 2012. All three commenters supported the proposed rule change.

[5] *See* Notice, *supra* note 3, at 56245.

the exact par value on all transactions with a par value of $5 million or less, and to include an indicator of ''MM+'' in place of the exact par value on transactions where the par value is greater than $5 million.[6] The exact par value of transactions having a par value greater than $5 million would be disseminated from RTRS five business days later.[7]

According to the MSRB, a foundational principle of RTRS is that all market participants have equal access to transaction information. In a recent report on municipal securities market structure, the Government Accountability Office (''GAO'') observed that certain market participants are able to determine, through their relationships with dealers, the par amount of large transactions for which the par value is masked in RTRS subscription services and on EMMA.[8] According to the MSRB, the GAO's observation undermines the purpose of masking the exact par value, as well as the foundational principle of RTRS, since the equality of access to transaction information is lost for the five business day period that certain institutional customers have access to the exact par value while the rest of the marketplace must await the unmasking of such information by RTRS five business days after the trade was reported.[9] Additionally, while commenters opposed the MSRB's original proposal to eliminate the practice of masking large trade sizes entirely,[10] commenters stated that raising the par value threshold for masking large trade sizes to $5 million would provide additional transparency to the municipal securities market without adversely impacting liquidity.[11]

[6] Instead of changing the indicator to ''5MM+,'' the MSRB plans to include an indicator of ''MM+'' so that the par value threshold can be changed in the future without requiring subscribers to make system changes to accommodate a new indicator. *See id.* at 56245 n.6.

[7] *See id.* at 56244.

[8] *See* U.S. Government Accountability Office, Municipal Securities: Overview of Market Structure, Pricing, and Regulation, GAO–12–265, January 17, 2012.

[9] *See* Notice, *supra* note 3, at 56245.

[10] The MSRB has indicated it plans to continue to evaluate whether this threshold can be raised further, or completely eliminated, with a view towards bringing full transparency of exact par values to the municipal securities market in real-time. The MSRB plans to evaluate any impacts on liquidity from the near-term increase of the trade size mask threshold to $5 million to assist it in determining whether any future changes to this threshold are merited or could result in unanticipated consequences. *See id.*

[11] *See supra* note 4. *See also* Notice, *supra* note 3, at 56245.

III. Discussion and Commission's Findings

The Commission has carefully considered the proposed rule change, as well as the comment letters received and the MSRB's response, and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB.[12] In particular, the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act, which provides that the MSRB's rules shall 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.[13]

The Commission recently urged the MSRB promptly to pursue enhancements to its EMMA Web site so that retail investors have better access to pricing and other municipal securities information, noting that retail investors continue to have access to substantially less pricing information than institutional investors and dealers.[14] The MSRB believes that raising the par value masking threshold to par values over $5 million is an appropriate first step to take in the short term as it would greatly reduce the number of trades subject to the par value mask.[15] The Commission believes the proposed rule change is reasonably designed to remove impediments to and perfect the mechanism of a free and open market in municipal securities by increasing the number of transactions disseminated from RTRS in real-time that include the exact par value of such transactions, thereby providing more transparency to market participants, including retail investors, about transactions disseminated from RTRS.

[12] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78*o*–4(b)(2)(C).

[14] *See* Report on the Municipal Securities Market, July 31, 2012, *available at http://www.sec.gov/news/studies/2012/munireport073112.pdf.*

[15] According to the MSRB, based on 2011 trade data, 342,906 trades were subject to the over $1 million trade size mask, while 97,124 trades had par values over $5 million. *See* Notice, *supra* note 3, at 56245.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB and, in particular, Section 15B(b)(2)(C)[16] of the Exchange Act. The proposal will become effective on November 5, 2012.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–MSRB–2012–07) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26340 Filed 10–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68075; File No. SR–FINRA–2012–046]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Definition of ''Money Market Instrument'' in FINRA Rule 6710(o)

October 22, 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 October 11, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[16] 15 U.S.C. 78*o*–4(b)(2)(C).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to exclude additional short-term discount notes from the definition of TRACE-Eligible Security in FINRA Rule 6710(a) by amending the definition of ''Money Market Instrument'' in FINRA Rule 6710(o) of the Trade Reporting and Compliance Engine (TRACE) rules.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA proposes to amend the definition of ''Money Market Instrument'' in FINRA Rule 6710(o) for purposes of the TRACE rules. The proposed amendment would modify the definition of Money Market Instrument to include discount notes that are issued by an Agency or a Government-Sponsored Enterprise (hereinafter, referred to as agency discount notes) [4] and have a maturity of one calendar year and one day or less from the date of issuance (i.e., not later than 366 days from the date of issuance, or if a leap year, not later than 367 days from the date of issuance), which would exclude such short-term instruments from the definition of TRACE-Eligible Security.

Currently, a Money Market Instrument is defined in FINRA Rule 6710(o) as ''a debt security that at issuance has a maturity of one year or less.'' Such products are excluded from the definition of TRACE-Eligible Security in FINRA Rule 6710(a) and thus are not subject to TRACE reporting and dissemination. FINRA interprets a Money Market Instrument to include an instrument with a 365 day term (or in a leap year, a 366 day term). For example, a debt security that is issued on September 15, 2012 and matures on September 14, 2013, is a Money Market Instrument (and thus *not* subject to TRACE reporting and dissemination). In contrast, an instrument that is issued on September 15, 2012 and matures on September 15, 2013 is not a Money Market Instrument (and thus *is* a TRACE-Eligible Security subject to TRACE reporting and dissemination).[5]

FINRA proposes to modify the definition of Money Market Instrument in FINRA Rule 6710(o) to include a significant number of agency discount notes. Consistent with a market convention that pre-dates TRACE, such agency discount notes are frequently issued and routinely mature 366 days (or, in a leap year, 367 days) from the date of issuance. Although these instruments are technically included in the universe of TRACE-Eligible Securities today, FINRA believes that such instruments should be treated as Money Market Instruments, which is consistent with the trading of such instruments, and not subject to TRACE reporting and dissemination. Accordingly, FINRA proposes to amend FINRA Rule 6710(o) to define ''Money Market Instrument'' as a ''debt security that at issuance has a maturity of one calendar year or less, or, if a discount note issued by an Agency, as defined in FINRA Rule 6710(k), or a Government-Sponsored Enterprise, as defined in FINRA Rule 6710(n), a maturity of one calendar year and one day or less.''

FINRA believes that the proposed amendment is appropriate and would give effect to FINRA's intention to exclude money market instruments generally from TRACE. In addition, the proposed amendment would reduce any market confusion regarding the appropriate treatment of these short-term instruments. Moreover, excluding agency discount notes from TRACE reporting and dissemination should not adversely impact price transparency, as the agency discount notes are in demand and generally trade actively at narrow spreads.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change to modify the definition of Money Market Instrument to include agency discount notes having a term of one calendar year and one day or less will protect investors and the public interest by reducing market confusion and possible misreporting and enhance market transparency by clarifying the short-term instruments that are to be reported to TRACE.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) thereunder.[8]

FINRA has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of

[4] The terms ''Agency'' and ''Government-Sponsored Enterprise'' are defined in FINRA Rules 6710(k) and 6710(n), respectively.

[5] One year or less is one calendar year (adjusted accordingly during a leap year), with the date of issuance counted as the first day.

[6] 15 U.S.C. 78*o*–3(b)(6).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

investors and the public interest because such action should help minimize any market confusion regarding the TRACE-eligibility of agency discount notes. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[9]

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–FINRA–2012–046 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2012–046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–046 and should be submitted on or before November 16, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26338 Filed 10–25–12; 8:45 am]

BILLING CODE 8011–01–P

[9] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68084; File No. SR–FINRA–2012–042]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of Proposed Rule Change Relating to Post-Trade Transparency for Agency Pass-Through Mortgage-Backed Securities Traded in Specified Pool Transactions and SBA-Backed Asset-Backed Securities Transactions

October 23, 2012.

I. Introduction

On August 29, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 relating to post-trade transparency for Agency Pass-Through Mortgage-Backed Securities (''MBS'') traded in Specified Pool Transactions (''SPT'' and, together with MBS, ''MBS SPT'') and Asset-Backed Securities backed by loans guaranteed as to principal and interest by the Small Business Administration (''SBA-Backed ABS'') and traded either SPT (''SBA-Backed ABS SPT'') or To Be Announced (''TBA'' and, together with SBA-Backed ABS, ''SBA-Backed ABS TBA'').[3] The proposed rule change was published for comment in the **Federal Register** on September 13, 2012.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of the Proposal

FINRA utilizes the Trade Reporting and Compliance Engine (''TRACE'') to collect from its members and publicly disseminate information on secondary over-the-counter transactions in corporate debt securities and Agency Debt Securities and certain primary market transactions. FINRA also utilizes TRACE to collect information on transactions in Asset-Backed Securities but, until recently, FINRA did not disseminate such information publicly.[5] Earlier this year, however, FINRA amended its rules to reduce the reporting timeframe for and to provide for public dissemination of information regarding transactions in Agency Pass-Through Mortgage-Backed Securities traded TBA (''MBS TBA''), a type of Asset-Backed Security.[6] FINRA has now proposed to reduce the reporting timeframe for and to provide for public dissemination of information regarding transactions in additional types of Asset-Backed Securities, namely, MBS SPT and SBA-Backed ABS transactions, and to make certain other changes.

Reduction of Reporting Period

FINRA has proposed to amend its Rule 6730 to reduce the period for reporting MBS SPT and SBA-Backed ABS transactions to TRACE. The reduction would occur in two stages. First, for a pilot program of approximately 180 days, FINRA will reduce the reporting period from no later than the close of the TRACE system on the date of execution to no later than two hours from the Time of Execution.[7] Second, after approximately 180 days, the pilot program will expire and the reporting period will be reduced from no later than two hours from the

[3] The terms ''Asset-Backed Security,'' ''TBA,'' ''Agency Pass-Through Mortgage-Backed Security'' and ''Specified Pool Transaction'' are defined in FINRA Rules 6710(m), (u), (v) and (x), respectively.

[4] *See* Securities Exchange Act Release No. 67798 (September 7, 2012), 77 FR 56686 (''Notice'').

[5] *See* Securities Exchange Act Release No. 61566 (February 22, 2010), 75 FR 9262 (March 1, 2010) (approving SR–FINRA–2009–065).

[6] *See* Securities Exchange Act Release No. 66829 (April 18, 2012), 77 FR 24748 (April 25, 2012) (approving SR–FINRA–2012–020) (''FINRA–2012–020 Approval'').

[7] However, there are exceptions for transactions that are executed within two hours of the close of the TRACE system and for transactions executed when TRACE is closed.

Time of Execution to no later than one hour from the Time of Execution.[8]

Dissemination of MBS SPT and SBA Backed ABS Transaction Information

Recently, FINRA Rule 6750(b)(4) was amended to provide for dissemination of information on MBS TBA transactions immediately upon receipt of the transaction report.[9] FINRA's current proposal would amend Rule 6750(b)(4) so that it also provides for dissemination of information on MBS SPT and SBA Backed ABS transactions immediately upon receipt of the transaction report. Specifically, FINRA has proposed to amend Rule 6750(b)(4) to provide that FINRA will not disseminate information on a transaction in an Asset-Backed Security, except in the case of MBS transactions—which include MBS TBA as well as MBS SPT—or SBA-Backed ABS transactions. As a result of this proposed change and the reduced reporting periods that FINRA has proposed for MBS SPT and SBA-Backed ABS transactions, information on such transactions will be disseminated within two hours of the Time of Execution during the pilot period and within one hour of the Time of Execution after the pilot period expires.

Dissemination Protocols

The dissemination of information on MBS SPT and SBA Backed ABS transactions will be subject to certain dissemination protocols, in addition to the dissemination cap discussed below. SBA-Backed ABS TBA transactions will be subject to the same protocols that apply to MBS TBA transactions ''not for good delivery'' and standard data elements will be displayed.[10]

With respect to MBS SPT and SBA Backed ABS SPT transactions, however, FINRA has proposed not to disseminate the specific CUSIP of the security traded. Instead, FINRA has proposed to disseminate certain publicly available data elements that correspond to the reported CUSIP (without actually disseminating the CUSIP).[11] Specifically, for each MBS SPT transaction reported to TRACE, FINRA would disseminate in lieu of a CUSIP, the product type, amortization type, issuing agency, coupon, original maturity, weighted average coupon (''WAC''), weighted average maturity (''WAM''), weighted average loan age (''WALA''), average loan size (''ALS''), and original loan-to-value (''original LTV''). For each SBA-Backed ABS SPT transaction reported to TRACE, FINRA would disseminate in lieu of a CUSIP, the amortization type, coupon, original maturity, WAC, WAM, and WALA, except that such values would be based on SBA-backed pooled loans. Each numerical data element (which would not include issuing agency, product type or amortization type) will be expressed in ranges (*i.e.,* the information will be truncated and rounded up or down).

Dissemination Cap

FINRA has proposed a dissemination cap of $10 million for MBS SPT and SBA Backed ABS transactions, which would prevent the display in disseminated TRACE data of the actual size (volume) of MBS SPT and SBA Backed ABS transactions with a par value over $10 million; rather, such transactions will be displayed as ''10MM+.''[12]

Other Rule Changes

FINRA has proposed to amend FINRA Rule 6710 to add ''SBA-Backed ABS'' as a defined term[13] and to make conforming amendments to the definitions of TBA, MBS, and SPT in Rules 6710(u), (v), and (x), respectively, in order to incorporate SBA-Backed ABS.

Regulatory Notice

FINRA has stated that it would announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval, and that the effective date be no later than 180 days following publication of that *Regulatory Notice.*

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[15] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

In approving the original TRACE rules, the Commission stated that price transparency plays a fundamental role in promoting fairness and efficiency of U.S. capital markets.[16] To further the goal of increasing price transparency in the debt markets in general and the MBS SPT and SBA-Backed ABS markets in particular, the Commission now believes that it is reasonable and consistent with the Act for FINRA to extend post-trade price transparency to transactions in MBS SPT and SBA-Backed ABS in the manner set forth in the proposal.

As discussed above, FINRA recently amended its rules to provide for public dissemination (and timelier reporting to TRACE) of information on transactions in MBS TBA.[17] The current proposal will continue this initiative by making information on MBS SPT and SBA-Backed ABS transactions publicly available for the first time. In doing so, the proposal could encourage greater participation in the market, and thereby contribute to deeper liquidity and increased competition. In addition, the proposal appears reasonably designed to reduce the potential for manipulation and promote just and equitable principles of trade by allowing market participants to make more accurate assessments of, and enhancing their ability to negotiate fair and competitive prices in, the MBS SPT and SBA-Backed ABS markets.

Further, the Commission believes that the proposed dissemination protocols for MBS SPT and SBA-Backed ABS SPT transactions, pursuant to which specified data elements would be disseminated in lieu of actual CUSIPs, strike an appropriate balance between providing meaningful post-trade transparency and, at the same time, reducing the potential for ''reverse engineering'' of transaction data that could permit identification of a market participant and/or its trading strategy. According to FINRA, part of the valuation analysis of any Asset-Backed Security includes a projection of its cash flow which, in turn, relies on

[8] *See supra* note 7.

[9] *See* FINRA 2012–020 Approval.

[10] *See* FINRA 2012–020 Approval; *see also* Notice, 77 FR at 56688 and n.20.

[11] *See* Notice, 77 FR at 56688–90.

[12] *See* Notice, 77 FR at 56690. Certain dissemination caps are already in place. There are $5 million and $1 million caps for TRACE-Eligible Securities that are rated Investment Grade and Non-Investment Grade, respectively, which pre-date the FINRA–2012–020 Approval. *See id.* There are also $25 million and $10 million dissemination caps for transactions in MBS TBA, with the $25 million cap applying to one subset of MBS TBA transactions and the $10 million cap applying to another subset. *See* FINRA–2012–020 Approval.

[13] *See* proposed Rule 6710(bb).

[14] 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).

[15] 15 U.S.C. 78o–3(b)(6).

[16] *See* Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131, 8136 (January 29, 2001).

[17] *See* FINRA–2012–020 Approval.

assumptions about prepayment rates.[18] FINRA believes that the specified data elements that will be disseminated for MBS SPT and SBA-Backed ABS SPT transactions provide information that will allow market participants to perform such an analysis.[19] Moreover, FINRA has represented that, in the future, it could determine to propose dissemination of additional data elements that it believes would improve transparency for such transactions.[20]

Additionally, the proposed reduction in reporting times for MBS SPT and SBA-Backed ABS transactions is an important corollary to the expansion of post-trade transparency for such transactions. Timelier reporting should be more conducive to the dissemination of meaningful (and close-to-real time) MBS SPT and SBA-Backed ABS transaction information. The Commission believes that reducing the reporting period as set forth in the proposal would result in important trade information reaching the market more quickly, thus contributing to enhanced price transparency for the MBS SPT and SBA-Backed ABS asset classes.

Firms covered by these new reporting requirements for MBS SPT and SBA-Backed ABS transactions could incur certain compliance burdens. However, the Commission believes that any such burdens are justified by the overall benefits of increasing transparency in the MBS SPT and SBA-Backed ABS markets. The Commission notes that FINRA has proposed to shorten the reporting period for MBS SPT and SBA-Backed ABS transactions in stages. The Commission believes that this approach is reasonably designed to ease the compliance burdens on those affected by the proposal without significantly compromising FINRA's ability to disseminate more timely transaction information for MBS SPT and SBA-Backed ABS transactions.

The Commission recognizes that the $10 million dissemination cap FINRA has proposed would, to a certain extent, limit the transparency provided by FINRA's proposal.[21] However, the Commission notes that dissemination caps are already in place for transactions in other TRACE-Eligible Securities.[22] Moreover, public dissemination of information on MBS SPT and SBA-Backed ABS transactions has heretofore not existed in the MBS SPT and SBA-Backed ABS markets. The dissemination cap will allow FINRA to implement post-trade price transparency in those markets incrementally. Furthermore, FINRA has represented that it will continue to review the volume of and liquidity in those markets and, if warranted in the future, may propose that the dissemination cap be set at a higher level in order to provide additional transparency.[23]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–FINRA–2012–042) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–26399 Filed 10–25–12; 8:45 am]

BILLING CODE 8011–01–P

[18] *See* Notice, 77 FR at 56689.

[19] *See id.*

[20] *See id.*

[21] The Commission notes that, as calculated by FINRA, the $10 million dissemination cap would have limited the display of actual size for approximately 80% of total volume traded in MBS SPT and SBA-Backed ABS during the period May 16, 2011 through January 4, 2012. *See* Notice, 77 FR at 56690 and n.28.

[22] *See supra* note 13.

[23] *See* Notice, 77 FR at 56690.

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–26503 Filed 10–24–12; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

MedLink International, Inc.; Order of Suspension of Trading

October 24, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MedLink International, Inc. (''MedLink''). Questions have arisen concerning the accuracy of publicly disseminated information concerning the company's public filings and financial statements. MedLink's securities are quoted on OTC Link operated by OTC Markets Group Inc. under the ticker symbol MLKNA.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on October 24, 2012, through 11:59 p.m. EST on November 6, 2012.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of China Voice Holding Corp., China Yongxin Pharmaceuticals, Inc., Creative Technologies Holdings, Inc., Crestek, Inc., Crys*Tel Telecommunications.com, Inc. (n/k/a Fleet Management Solutions, Inc.), CSI Computer Specialists, Inc., and CST Entertainment, Inc. (n/k/a Legacy Holding, Inc.); Order of Suspension of Trading

October 24, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Voice Holding Corp. because it has not filed any periodic reports since the period ended December 31, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Yongxin Pharmaceuticals, Inc. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Creative Technologies Holdings, Inc. because it has not filed any periodic reports since the period ended March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crestek, Inc. because it has not filed any periodic reports since the period ended March 31, 1993.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crys*Tel Telecommunications.com, Inc. (n/k/a Fleet Management Solutions, Inc.) because it has not filed any periodic reports since January 19, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CSI Computer Specialists, Inc. because it has not filed any periodic reports since the period ended June 30, 2000.

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of CST Entertainment, Inc. (n/k/a Legacy Holding, Inc.) because it has not filed any periodic reports since the period ended September 30, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on October 24, 2012, through 11:59 p.m. EST on November 6, 2012.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2012–26506 Filed 10–24–12; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 8073]

30-Day Notice of Proposed Information Collection: Supplemental Registration for the Diversity Immigrant Visa Program

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to November 26, 2012.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email:* *oira_submission@omb.eop.gov*. You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Sydney Taylor, Visa Services, U.S. Department of State, 2401 E Street NW., L–630, Washington, DC who may be reached at *PRA_BurdenComments@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Supplemental Registration for the Diversity Immigrant Visa Program.
- *OMB Control Number:* 1405–0098.
- *Type of Request:* Extension.
- *Originating Office:* CA/VO/L/R.
- *Form Number:* DSP–0122.
- *Respondents:* Diversity Visa Applicants.
- *Estimated Number of Respondents:* 60,000.
- *Estimated Number of Responses:* 60,000.
- *Average Time per Response:* 30 minutes.
- *Total Estimated Burden Time:* 30,000 hours.
- *Frequency:* Once per Application.
- *Obligation to Respond:* Required to Obtain Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: Each time the Diversity Visa lottery is conducted, the Kentucky Consular Center (KCC) will register the randomly selected entries and send the applicants an Instruction Package for Immigrant Visa Applicants, which consists of Form DS–122 (Supplemental Registration for the Diversity Immigrant Visa Program) and Form DS–230 (Application for Immigrant Visa and Alien Registration Part I and II). In order for an applicant to be considered for a visa, the applicant must complete and return both of the above-mentioned forms to KCC. Upon receipt of these forms, KCC will transmit the Immigrant Visa Appointment Package to the US Embassy or Consulate and schedule an appointment for the applicant.

Methodology: Applicants must return the completed form to the KCC via mail.

Dated: October 20, 2012.

Don Heflin,

Acting Deputy Assistant Secretary, Visa Services, Consular Affairs, Department of State.

[FR Doc. 2012–26393 Filed 10–25–12; 8:45 am]

BILLING CODE 4710–06–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of United States-Panama Trade Promotion Agreement Tariff-Rate Quota for Imports of Sugar

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: USTR is providing notice that the tariff-rate quotas for sugar established by the United States-Panama Trade Promotion Agreement will be administered using certificates.

DATES: *Effective Date:* October 31, 2012.

ADDRESSES: Inquiries may be mailed or delivered to Ann Heilman-Dahl, Director of Agriculture Affairs, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Ann Heilman-Dahl, Office of Agriculture Affairs, telephone: (202) 395–6127 or facsimile: (202) 395–4579.

SUPPLEMENTARY INFORMATION: On June 28, 2007, the United States entered into the United States-Panama Trade Promotion Agreement (the ''Agreement''). Congress approved the Agreement in section 101(a) of the United States-Panama Trade Promotion Agreement Implementation Act (the ''Implementation Act'') (Pub. L. 112–43, 125 Stat. 497) (19 U.S.C. 3805 note).

The President is authorized under section 201(d) of the Implementation Act to take such action as may be necessary in implementing the tariff-rate quotas set forth in Appendix I to the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement (''Appendix I'') to ensure the orderly marketing of commodities in the United States. Under a tariff-rate quota, the United States applies one tariff rate, known as the ''in-quota tariff rate,'' to imports of a product up to a particular

amount, known as the ''in-quota quantity,'' and a different, higher tariff rate, known as the ''over-quota tariff rate,'' to imports of the product in excess of that amount.)

Appendix I of the Agreement establishes three tariff-rate quotas for imports of sugar from Panama.

USTR is providing notice that the United States, consistent with Note 6(a), and (e) of Appendix I, is administering two of the duty-free quantities of sugar established under the Agreement, the sugar and sugar-containing products (SCPs) tariff-rate quota and the raw sugar tariff-rate quota, through a certificate system substantially similar to that described in 15 CFR 2011.102(c) (2006).

Consistent with 15 CFR 2011.102(c), no sugar that is the product of Panama may be permitted entry under the in-quota tariff-rate established for imports of raw sugar or the in-quota tariff-rate established for imports of sugar and SCPs from Panama unless at the time of entry the person entering such sugar presents to the appropriate customs official a valid and properly executed certificate of quota eligibility for such sugar. The Secretary of Agriculture will issue such certificates of quota eligibility to the Government of Panama. These certificates, when duly executed and issued by the certifying authority of Panama, will authorize entry into the United States at the in-quota tariff-rate established under the Agreement.

The Office of Management and Budget (OMB) has approved the information collection requirements related to certificates for quota eligibility in accordance with 44 U.S.C. Chapter 25, and OMB control number 0551–0014 has been assigned with corresponding clearance effective through October 31, 2013.

USTR is also providing notice that the United States, consistent with Note 6(h) of Appendix I, is administering the duty-free quantities of specialty sugar established under the Agreement through a specialty sugar certificate system substantially similar to that described in 15 CFR 2011.202(b) (2006). Consistent with 15 CFR 2011.202(b), no specialty sugar that is the product of Panama may be permitted entry under the in-quota tariff-rate established for imports of specialty sugar from Panama unless at the time of entry the person entering such sugar presents to the appropriate customs official a valid and properly executed specialty sugar certificate for such sugar. The Secretary of Agriculture will issue such specialty sugar certificates. These certificates, when issued by the Secretary of Agriculture, will authorize entry into the United States at the in-quota tariff-rate established under the Agreement.

The Office of Management and Budget (OMB) has approved the information collection requirements related to specialty sugar certificates in accordance with 44 U.S.C. Chapter 25, and OMB control number 0551–0025 has been assigned with corresponding clearance effective through March 31, 2015.

Ronald Kirk,

United States Trade Representative.

[FR Doc. 2012–26431 Filed 10–25–12; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No: FAA–2005–22842]

Notice of Opportunity To Participate, Criteria Requirements and Application Procedure for Participation in the Military Airport Program

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

ACTION: Notice of criteria and application procedures for designation or redesignation, in the Military Airport Program (MAP), for the fiscal year 2013.

SUMMARY: This notice announces the criteria, application procedures, and schedule to be applied by the Secretary of Transportation in designating or redesignating, and funding capital development for up to 15 current joint-use or former military airports seeking first time designation or redesignation to participate in the MAP.

The MAP allows the Secretary to designate current joint-use or former military airports to receive grants from the Airport Improvement Program (AIP). The Secretary is authorized to designate an airport (other than an airport designated before August 24, 1994) only if:

(1) The airport is a former military installation closed or realigned under the Title 10 U.S.C. Sec. 2687 (announcement of closures of large Department of Defense installations after September 30, 1977), or under Section 201 or 2905 of the Defense Authorization Amendments and Base Closure and Realignment Acts; or

(2) The airport is a military installation with both military and civil aircraft operations.

The Secretary shall consider for designation only those current joint or former military airports, at least partly converted to civilian airports as part of the national air transportation system, that will reduce delays at airports with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings, or will enhance airport and air traffic control system capacity in metropolitan areas, or reduce current and projected flight delays (49 U.S.C. 47118(c)).

DATES: Applications must be received on or before December 26, 2012.

ADDRESSES: Submit an original and two copies of *Standard Form (SF) 424*, ''Application for Federal Assistance,'' prescribed by the Office of Management and Budget Circular A–102, available at *http://www.faa.gov/airports/resources/forms/media/aip_sf424_2010.pdf* along with all supporting and justifying documentation required by this notice. Applicant should specifically request to be considered for designation or redesignation to participate in the fiscal year 2013 MAP. Submission should be sent to the Regional FAA Airports Division or Airports District Office that serves the airport. Applicants may find the proper office on the FAA Web site *http://www.faa.gov/airports/news_information/contact_info/regional/* or may contact the office below.

FOR FURTHER INFORMATION CONTACT: Mr. Kendall Ball (*Kendall.Ball@faa.gov*), Airports Financial Assistance Division (APP–500), Office of Airport Planning and Programming, Federal Aviation Administration (FAA), 800 Independence Avenue SW., Washington, DC 20591, (202) 267–7436.

SUPPLEMENTARY INFORMATION:

General Description of the Program

The MAP provides capital development assistance to civil airport sponsors of designated current joint-use military airfields or former military airports that are included in the FAA's National Plan of Integrated Airport Systems (NPIAS). Airports designated to the MAP may obtain funds from a set-aside (currently four percent) of AIP discretionary funds for airport development, including certain projects not otherwise eligible for AIP assistance. These airports are also eligible to receive grants from other categories of AIP funding.

Number of Airports

A maximum of 15 airports per fiscal year (FY) may participate in the MAP, of which 3 may be general aviation (GA) airports. There are 6 slots available for designation or redesignation in FY 2013. There are no GA slots available in fiscal year 2013.

Term of Designation

The maximum term is five fiscal years following designation. The FAA can designate airports for a period of less than five years. The FAA will evaluate the conversion needs of the airport in its capital development plan to determine the appropriate length of designation.

Redesignation

Previously designated airports may apply for redesignation of an additional term not to exceed five years. Those airports must meet current eligibility requirements in 49 U.S.C. 47118(a) at the beginning of each grant period and have MAP eligible projects. The FAA will evaluate applications for redesignation primarily in terms of warranted projects fundable only under the MAP as these candidates tend to have fewer conversion needs than new candidates. The FAA's goal is to graduate MAP airports to regular AIP participation by successfully converting these airports to civilian airport operations.

Eligible Projects

In addition to eligible AIP projects, MAP can fund fuel farms, utility systems, surface automobile parking lots, hangars, and air cargo terminals up to 50,000 square feet. A designated or redesignated military airport can receive not more than $7,000,000 each fiscal year to construct, improve, and repair terminal building facilities. In addition a designated or redesignated military airports can receive not more than $7,000,000 each fiscal year for MAP eligible projects that include hangars, cargo facilities, fuel farms, automobile surface parking, and utility work.

Designation Considerations

In making designations of new candidate airports, the Secretary of Transportation may only designate an airport (other than an airport so designated before August 24, 1994) if it meets the following general requirements:

(1) The airport is a former military installation closed or realigned under:

(A) Section 2687 of Title 10;

(B) Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (BRAC) (10 U.S.C. 2687 note); or

(C) Section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

(2) The airport is a military installation with both military and civil aircraft operations; and

(3) The airport is classified as a commercial service or reliever airport in the NPIAS. (See 49 U.S.C. 47105(b)(2)). Three of the designated airports, if included in the NPIAS, may be GA airports (''general aviation airport'' means a public airport that is located in a State that, as determined by the Secretary: (A) does not have scheduled service; or (B) has scheduled service with less than 2,500 passenger boardings each year) that was a former military installation closed or realigned under BRAC, as amended, or 10 U.S.C. 2687. (See 49 U.S.C. 47118(g)). A GA airport must qualify under (1) above. However, as noted under ''Number of Airports,'' there are no GA slots available in fiscal year 2013.

In designating new candidate airports, the Secretary shall consider if a grant will:

(1) Reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

(2) Enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.

The application for new designations will be evaluated in terms of how the proposed projects will contribute to reducing delays and/or how the airport will enhance air traffic or airport system capacity and provide adequate user services.

Project Evaluation

Recently realigned or closed military airports, as well as active military airfields with new joint-use agreements, have the greatest need of funding to convert to, or to incorporate, civil airport operations. Newly converted airports and new joint-use locations frequently have minimal capital development resources and will therefore receive priority consideration for designation and MAP funding. The FAA will evaluate the need for eligible projects based upon information in the candidate airport's five-year Capital Improvement Plan (CIP).

1. The FAA will evaluate candidate airports and/or the airports such candidate airports will relieve based on the following specific factors:

- Compatibility of airport roles and the ability of the airport to provide an adequate airport facility;
- The capability of the candidate airport and its airside and landside complex to serve aircraft that otherwise must use a congested airport;
- Landside surface access;
- Airport operational capability, including peak hour and annual capacities of the candidate airport;
- Potential of other metropolitan area airports to relieve the congested airport;
- Ability to satisfy, relieve, or meet air cargo demand within the metropolitan area;
- Forecasted aircraft and passenger levels, type of commercial service anticipated, i.e., scheduled or charter commercial service;
- Type and capacity of aircraft projected to serve the airport and level of operations at the congested airport and the candidate airport;
- The potential for the candidate airport to be served by aircraft or users, including the airlines, serving the congested airport;
- Ability to replace an existing commercial service or reliever airport serving the area; and
- Any other documentation to support the FAA designation of the candidate airport.

2. The FAA will evaluate the extent to which development needs funded through MAP will make the airport a viable civil airport that will enhance system capacity or reduce delays.

Application Procedures and Required Documentation

Airport sponsors applying for designation or redesignation must complete and submit an SF 424, Application for Federal Assistance, and provide supporting documentation to the appropriate FAA Airports regional or district office serving that airport.

Standard Form 424:

Sponsors may obtain this fillable form at *http://www.faa.gov/airports/resources/forms/media/aip_sf424_2010.pdf.*

Applicants should fill this form out completely, including the following:

- Mark Item 1, Type of Submission as a ''pre-application'' and indicate it is for ''construction''.
- Mark item 8, Type of Application as ''new'', and in ''other'', fill in ''Military Airport Program''.
- Fill in Item 11, Descriptive Title of Applicants Project. ''Designation (or redesignation) to the Military Airport Program''.
- In Item 15a, Estimated Funding, indicate the total amount of funding requested from the MAP during the entire term for which you are applying.

Supporting Documentation

(A) Identification as a Current or Former Military Airport. The application must identify the airport as either a current or former military airport and indicate whether it was:

(1) Closed or realigned under Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act, and/or Section 2905 of the Defense Base Closure and

Realignment Act of 1990 (Installations Approved for Closure by the Defense Base Realignment and Closure Commissions), or

(2) Closed or realigned pursuant to 10 U.S.C. 2687 as excess property (bases announced for closure by Department of Defense (DOD) pursuant to this title after September 30, 1977 (this is the date of announcement for closure)), or

(3) A military installation with both military and civil aircraft operations. A general aviation airport applying for the MAP may be joint-use but must also qualify under (1) or (2) above.

(B) Qualifications for MAP:

Submit documents for (1) through (8) below:

(1) Documentation that the airport meets the definition of a ''public airport'' as defined in 49 U.S.C. Sec. 47102(20).

(2) Documentation indicating the required environmental review for civil reuse or joint-use of the military airfield has been completed. This environmental review need not include review of the individual projects to be funded by the MAP. Rather, the documentation should reflect that the environmental review necessary to convey the property, enter into a long-term lease, or finalize a joint-use agreement has been completed. The military department conveying or leasing the property, or entering into a joint-use agreement, has the lead responsibility for this environmental review. To meet AIP requirements the environmental review and approvals must indicate that the operator or owner of the airport has good title, satisfactory to the Secretary, or assures that good title will be acquired.

(3) For a former military airport, documentation that the eligible airport sponsor holds or will hold satisfactory title, a long-term lease in furtherance of conveyance of property for airport purposes, or a long-term interim lease for 25 years or longer to the property on which the civil airport is being located. Documentation that an application for surplus or BRAC airport property has been accepted by the Federal Government is sufficient to indicate the eligible airport sponsor holds or will hold satisfactory title or a long-term lease.

(4) For a current military airport, documentation that the airport sponsor has an existing joint-use agreement with the military department having jurisdiction over the airport. For all first time applicants a copy of the existing joint-use agreement must be submitted with the application. This is necessary so the FAA can legally issue grants to the sponsor. Here and in (3) directly above, the airport must possess the necessary property rights in order to accept a grant for its proposed projects during FY 2013.

(5) Documentation that the airport is classified as a ''commercial service airport'' or a ''reliever airport'' as defined in 49 U.S.C. 47102(7) and 47102(22).

(6) Documentation that the airport owner is an eligible airport ''sponsor'' as defined in 49 U.S.C. 47102(24).

(7) Documentation that the airport has an FAA approved airport layout plan (ALP) and a five-year capital improvement plan (CIP) indicating all eligible grant projects proposed to be funded either from the MAP or other portions of the AIP.

(8) For commercial service airports a business/marketing plan or equivalent must be submitted with the application. For general aviation airports other planning documents may be submitted.

(C) Evaluation Factors:

Submit information on the items below to assist in our evaluation:

(1) Information identifying the existing and potential levels of visual or instrument operations and aeronautical activity at the current or former military airport and, if applicable, the congested airport. Also, if applicable, information on how the airport contributes to air traffic system or airport system capacity. If served by commercial air carriers, the revenue passenger and cargo levels should be provided.

(2) A description of the airport's projected civil role and development needs for transitioning from use as a military airfield to a civil airport. Include how development projects would serve to reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or enhance capacity in a metropolitan area or reduce current and projected flight delays.

(3) A description of the existing airspace capacity. Describe how anticipated new operations would affect the surrounding airspace and air traffic flow patterns in the metropolitan area in or near the airport. Include a discussion of whether operations at this airport create airspace conflicts that may cause congestion or whether air traffic works into the flow of other air traffic in the area.

(4) A description of the airport's five-year CIP, including a discussion of major projects, their priorities, projected schedule for project accomplishment, and estimated costs. The CIP must specifically identify the safety, capacity, and conversion related projects, associated costs, and projected five-year schedule of project construction, including those requested for consideration for MAP funding.

(5) A description of those projects that are consistent with the role of the airport and effectively contribute to the joint-use or conversion of the airfield to a civil airport. The projects can be related to various improvement categories depending on what is needed to convert from military to civil airport use, to meet required civil airport standards, and/or to provide capacity to the airport and/or airport system. The projects selected (e.g., safety-related, conversion-related, and/or capacity-related), must be identified and fully explained based on the airport's planned use. Those projects that may be eligible under MAP, if needed for conversion or capacity-related purposes, must be clearly indicated, and include the following information:

Airside

- Modification of airport or military airfield for safety purposes, including airport pavement modifications, marking, lighting, strengthening, drainage or modifying other structures or features in the airport environs to meet civil standards for approach, departure and other protected airport surfaces as described in 14 CFR part 77 or standards set forth in FAA Advisory Circular 150/5300–13.
- Construction of facilities or support facilities such as passenger terminal gates, aprons for passenger terminals, taxiways to new terminal facilities, aircraft parking, and cargo facilities to accommodate civil use.
- Modification of airport or military utilities (electrical distribution systems, communications lines, water, sewer, storm drainage) to meet civil standards. Also, modifications that allow utilities on the civil airport to operate independently, where other portions of the base are conveyed to entities other than the airport sponsor or retained by the Government.
- Purchase, rehabilitation, or modification of airport and airport support facilities and equipment, including snow removal, aircraft rescue, fire fighting buildings and equipment, airport security, lighting vaults, and reconfiguration or relocation of eligible buildings for more efficient civil airport operations.
- Modification of airport or military airfield fuel systems and fuel farms to accommodate civil aviation use.
- Acquisition of additional land for runway protection zones, other approach protection, or airport development.
- Cargo facility requirements.

• Modifications, which will permit the airfield to accommodate general aviation users.

Landside

• Construction of surface parking areas and access roads to accommodate automobiles in the airport terminal and air cargo areas and provide an adequate level of access to the airport.

• Construction or relocation of access roads to provide efficient and convenient movement of vehicular traffic to, on, and from the airport, including access to passenger, air cargo, fixed base operations, and aircraft maintenance areas.

• Modification or construction of facilities such as passenger terminals, surface automobile parking lots, hangars, air cargo terminal buildings, and access roads to cargo facilities to accommodate civil use.

(6) An evaluation of the ability of surface transportation facilities (e.g., road, rail, high-speed rail, and/or maritime) to provide intermodal connections.

(7) A description of the type and level of aviation and community interest in the civil use of a current or former military airport.

(8) One copy of the FAA-approved ALP for each copy of the application. The ALP or supporting information should clearly show capacity and conversion related projects. Other information such as project costs, schedule, project justification, other maps and drawings showing the project locations, and any other supporting documentation that would make the application easier to understand should also be included. You may also provide photos, which would further describe the airport, projects, and otherwise clarify certain aspects of this application. These maps and ALP's should be cross-referenced with the project costs and project descriptions.

Redesignation of Airports Previously Designated and Applying for up to an Additional Five Years in the Program

Airports applying for redesignation to the Military Airport Program must submit the same information required by new candidate airports applying for a new designation. On the SF 424, Application for Federal Assistance, prescribed by the Office of Management and Budget Circular A–102, airports must indicate their application is for redesignation to the MAP. In addition to the information required for new candidates, airports requesting redesignation must also explain:

(1) Why a redesignation and additional MAP eligible project funding is needed to accomplish the conversion to meet the civil role of the airport and the preferred time period for redesignation not, to exceed five years;

(2) Why funding of eligible work under other categories of AIP or other sources of funding would not accomplish the development needs of the airport; and

(3) Why, based on the previously funded MAP projects, the projects and/or funding level were insufficient to accomplish the airport conversion needs and development goals.

In addition to the information requested above, airports applying for redesignation must provide a reanalysis of their original business/marketing plans (for example, a plan previously funded by the Office of Economic Adjustment or the original Master Plan for the airport) and prepare a report. If there is not an existing business/marketing plan a business/marketing plan or strategy must be developed. The report must contain:

(1) Whether the original business/marketing plan is still appropriate;

(2) Is the airport continuing to work towards the goals established in the business/marketing plan;

(3) Discuss how the MAP projects contained in the application contribute to the goals of the sponsor and their plans; and

(4) If the business/marketing plan no longer applies to the current goals of the airport, how has the airport altered the business/marketing plan to establish a new direction for the facility and how do the projects contained in the MAP application aid in the completion of the new direction and goals and by what date does the sponsor anticipate graduating from the MAP.

This notice is issued pursuant to Title 49 U.S.C. 47118.

Issued at Washington, DC, on October 3, 2012.

Benito DeLeon,

Director, Office of Airport Planning and Programming.

[FR Doc. 2012–26329 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Public Teleconference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee Teleconference.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of three teleconferences of the Systems Working Group of the Commercial Space Transportation Advisory Committee (COMSTAC). The teleconferences will take place on: Tuesday November 13, 2012, Tuesday December 18, 2012, and Tuesday January 15, 2013. All teleconferences will begin at 1:00 p.m. Eastern Standard Time and will last approximately one hour. Individuals who plan to participate should contact Paul Eckert, Designated Federal Officer (DFO), (the Contact Person listed below) by phone or email for the teleconference call-in number.

The purpose of these three teleconferences is to assist the FAA early in its development of regulations to protect occupants of commercial suborbital and orbital spacecraft. In a **Federal Register** notice dated July 30, 2012, the FAA announced its desire to engage with COMSTAC on a periodic basis, approximately once per month, on specific topics. The three teleconferences announced today are a continuation of the three announced in July.

As we noted in the July **Federal Register** notice, the FAA has not yet targeted a date for proposing regulations to protect the health and safety of crew and space flight participants. However, the FAA believes that the development of sound and appropriate regulations for human space flight can only be achieved with a deliberate, multi-year effort, and that early industry input into this regulatory effort before any formal proposal by the FAA is critical.

The topics for the first three teleconferences were: (1) What Level of Safety Should FAA Target? (2) What Should FAA Oversight Look Like? and (3) What Types of Requirements and Associated Guidance Material Should FAA Develop? The topics for three follow-on teleconferences are as follows:

(1) *Key Terms and Definitions for Commercial Human Space Flight Safety Regulations.* We would like to discuss key terms and definitions relevant to commercial human spaceflight regulations, and characterize their potential impacts to the various parties who have a vested interest in the industry. Terms that will be discussed include:

a. Abort.
b. Contingency.
c. Emergency.
d. Early Flight Return.
e. Landing Site.

(2) *Aborts and Abort Systems.* Abort systems have in the past been an

element of many government human space flight systems for the purpose of enhancing occupant safety. We will discuss the following questions from a regulatory perspective:

a. Is an abort system a part of fault tolerance?

b. Does an abort only apply to the launch/ascent phase, or does it apply to other flight phases as well?

c. Should certain types of orbital or suborbital vehicle designs require a launch abort system?

d. What should the reliability requirements be for an abort system?

e. Is it acceptable to have a different level of care for occupants during an abort?

(3) *Fault Tolerance, Margin, and Reliability.* To allow for industry innovation, the commercial human space flight industry wishes to be free to the maximum extent possible to choose between fault tolerance, design margin, and reliability. We will explore the extent of this desire from a regulatory perspective with the following questions:

a. What would be an acceptable rationale at a functional level for a choice of fault tolerance, design margin, or high reliability to protect the safety of spacecraft occupants?

b. What is the minimum level of fault tolerance? Is it different for orbital vs. suborbital?

c. When is occupant risk high enough to necessitate additional fault tolerance?

d. What determines whether fault tolerance is handled at the function level or system level?

Interested members of the public may submit relevant written statements for the COMSTAC working group members to consider under the advisory process. Statements may concern the issues and agenda items mentioned above or additional issues that may be relevant for the U.S. commercial space transportation industry. Interested parties wishing to submit written statements should contact Paul Eckert, DFO, (the Contact Person listed below) in writing (mail or email) by November 6, 2012, for the November 13 teleconference, December 11, 2012, for the December 18 teleconference, and January 8, 2013, for the January 15 teleconference. This way the information can be made available to COMSTAC members for their review and consideration before each teleconference. Written statements should be supplied in the following formats: One hard copy with original signature or one electronic copy via email. The FAA may schedule up to 6 more teleconferences in the coming months to allow the U.S. commercial space transportation industry to share views with the FAA on a number of specific topics related to commercial human space flight safety.

An agenda will be posted on the FAA Web site at *http://www.faa.gov/go/ast* and *http://www.faa.gov/about/office_org/headquarters_offices/ast/COMSTAC_working_group/*

Individuals who plan to participate and need special assistance should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Paul Eckert (AST–5), Office of Commercial Space Transportation (AST), 800 Independence Avenue SW., Room 331, Washington, DC 20591, telephone (202) 267–8655; Email *paul.eckert@faa.gov.* Complete information regarding COMSTAC is available on the FAA Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/ast/advisory_committee/.*

Issued in Washington, DC, October 16, 2012.

George C. Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 2012–26328 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0148, Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1991 Mercedes-Benz G-Class (463 Chassis) Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1991 Mercedes-Benz G-class (463 chassis) multi-purpose passenger vehicles (MPVs) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is November 26, 2012.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

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

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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

How To Read Comments Submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.*

Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (WETL) (Registered Importer 90–005) has petitioned NHTSA to decide whether nonconforming 1991 Mercedes-Benz G-class (463 chassis) MPVs are eligible for importation into the United States. WETL believes these vehicles are capable of being modified to meet all applicable FMVSS.

In its petition, WETL noted that over a period of years, NHTSA has granted import eligibility to a number of Mercedes-Benz G-class (a.k.a., Gelaendewagen) vehicles based on the 463 chassis. These include long wheel base (LWB) and short wheel base (SWB) models as well as cabriolet, 3 door, and other body versions of the vehicle (assigned vehicle eligibility numbers VCP–11, 15, 16, and 18). These eligibility decisions were based on petitions submitted by several Registered Importers (RIs) who claimed that the vehicles were capable of being altered to comply with all applicable FMVSS.

Because those vehicles were not manufactured for importation into and sale in the United States, and were not certified by their original manufacturer (Daimler Ag), as conforming to all applicable FMVSS, they cannot be categorized as ''substantially similar'' to the vehicle that is the subject of the instant petition for the purpose of establishing import eligibility of that vehicle under 49 U.S.C. 30141(a)(1)(A). Therefore, the agency will consider WETL's petition as a petition pursuant to 49 U.S.C. 30141(a)(1)(B).

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 1991 Mercedes-Benz G-class (463 chassis) MPVs conform to many FMVSS and are capable of being altered to comply with all other standards to which they were not originally manufactured to conform.

Specifically, the petitioner claims that non-U.S. certified 1991 Mercedes-Benz G-class (463 chassis) MPVs, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 119 *New Pneumatic Tires,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Replacement of the instrument cluster with a U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* If the vehicle is not already so equipped, installation of U.S.-model: (a) Headlamps; (b) front and rear side marker lamps; (c) tail lamp lenses; and (d) front turn signal lamps.

Standard No. 111 *Rearview Mirrors:* Installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* Installation of software to reprogram the system to comply.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* Inspection of each vehicle and reprogramming or rewiring of the power operated window system.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars:* Installation of a tire and rim information placard.

Standard No. 206 *Door Locks and Door Retention Components:* Replacement of door latch system components with U.S.-model components.

Standard No. 208 *Occupant Crash Protection:* Reprogramming the software for the seat belt warning system to meet the requirements of this standard.

The petitioner also stated that the vehicles are equipped with self-tensioning combination lap and shoulder belts that release by use of a single red push button at both front and rear outboard seating positions. The vehicle is equipped with a driver's-side airbag (passive restraint system).

Standard No. 209 *Seat Belt Assemblies:* Replacement of the passenger side seat belt with a U.S.-model component on vehicles that are not already so equipped.

Standard No. 301 *Fuel System Integrity:* Modification of the fuel vapor system to meet the EPA Onboard Refueling Vapor Recovery (ORVR) and the evaporative emissions requirements, which include installing a rollover and check valve to meet the requirements of this standard.

In addition, the petitioner states that a vehicle identification number plate must be installed in the area of the left windshield post to meet the requirements of 49 CFR Part 565 if the vehicle is not already so equipped.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Issued on: October 22, 2012.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2012–26347 Filed 10–25–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35682]

Decatur Junction Railway Co.—Acquisition and Operation Exemption—Line of Illinois Central Railroad Company

Decatur Junction Railway Co. (DJR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Illinois Central Railroad Company (IC), and to operate, approximately 4.4 miles of rail line between milepost 745.54 near Elwin and milepost 749.94 near Decatur, in Macon County, Ill. (the Line).

DJR currently leases from IC, and operates, 17 miles of rail line between milepost 745.54 near Elwin and milepost 728.0 near Assumption, Ill.[1] DJR also has incidental trackage rights over the Line and over IC's trackage north of milepost 749.94 for purposes of interchange with IC at Decatur, Ill., and for transit of DJR's equipment to DJR's line between Decatur and Cisco, Ill.

DJR states that, pursuant to an agreement between the parties, DJR intends to purchase, operate, maintain, and perform all rail common carrier service on the Line. DJR also states that the agreement contains no restrictions on interchange, and that it will operate the Line as part of its existing rail line between Elwin and Assumption.

The transaction is expected to be consummated on or about November 12, 2012. The earliest this transaction can be consummated is November 10, 2012, the effective date of the exemption.

DJR certifies that its projected annual revenues as a result of this transaction will not result in DJR's becoming a Class II or Class I rail carrier. DJR further certifies that it projected annual revenues will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 2, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35682, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Daniel A. LaKemper, General Counsel, Decatur Junction Railway Co., 1318 S. Johanson Road, Peoria, IL 61607.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: October 23, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–26373 Filed 10–25–12; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Decatur Terminal Ry.—Lease and Operation Exemption—Lines in Illinois,* FD 32365 (ICC served Oct. 18, 1993, as corrected Oct. 26, 1993).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35678]

Turtle Creek Industrial Railroad, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation

Turtle Creek Industrial Railroad, Inc. (TCKR), a noncarrier and a wholly owned corporate subsidiary of Dura-Bond Industries, Inc. (Dura-Bond), has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Consolidated Rail Corporation (Conrail) and to operate approximately 9.8 miles of rail line between milepost 0.9 at or near Trafford, and milepost 10.7 at or near Export, in Westmoreland County, Pa.[1]

The transaction may not be consummated prior to November 9, 2012 (30 days after the notice of exemption was filed).

TCKR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 2, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35678, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, 518 N. Center St., Ste. 100, Ebensburg, PA 15931.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: October 23, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–26420 Filed 10–25–12; 8:45 am]

BILLING CODE 4915–01–P

[1] TCKR states that it acquired the involved line from Conrail in 1982. Applicant indicates that it obtained a certificate of public convenience and necessity from the Pennsylvania Public Utility Commission ''under the misconception that the Commonwealth of Pennsylvania had authority to regulate intrastate rail transportation,'' apparently thinking it needed no additional authority. According to TCKR, it has operated as a Class III common carrier providing interstate rail service, primarily for Dura-Bond, without first obtaining authority from the Board's predecessor, the Interstate Commerce Commission (ICC). TCKR states that a significant portion of its track was washed out in 2009 and that no rail service has been provided since that time. TCKR further states that it now wishes to abandon the line and convey the right-of-way to Westmoreland County for recreational trail purposes. In order to proceed with its objectives, TCKR has filed this notice to correct its failure to obtain authority from the ICC. While the verified notice indicates that TCKR is seeking an exemption to authorize the acquisition ''*nunc pro tunc*'' (retroactively), TCKR's authority will be effective prospectively from November 9, 2012.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35684]

Iowa Pacific Holdings, LLC and Permian Basin Railways—Control Exemption—Cape Rail, Inc. and Massachusetts Coastal Railroad, LLC

Iowa Pacific Holdings, LLC (Iowa Pacific) and its wholly owned subsidiary, Permian Basin Railways (Permian), Cape Rail, Inc. (Cape), P. Christopher Podgurski (Podgurski), Andrew Reardon (Reardon), and Massachusetts Coastal Railroad, LLC (Mass Coastal) (collectively, applicants) have filed a verified notice of exemption for Iowa Pacific and Permian to acquire indirect control of Mass Coastal, a Class III rail carrier, through Permian's acquisition of an 80% stock interest in Cape, the parent company of Mass Coastal, from the two existing Cape shareholders, Podgurski and Reardon.[1] As a result of the proposed transaction, Iowa Pacific and Permian will indirectly control Mass Coastal. Podgurski and Reardon will continue to own the remaining 20% of Cape's shares. Iowa

[1] On October 12, 2012, applicants filed a motion for protective order pursuant to 49 CFR 1104.14 to protect the exchange of information by the parties in this proceeding. That motion will be addressed in a separate decision.

Pacific has created an independent voting trust to acquire and hold the Cape shares, and to provide for control of Mass Coastal, until Board approval is received through the notice of exemption procedure.[2]

Through Permian, Iowa Pacific currently controls indirectly the following seven Class III rail carriers in the United States: Austin & Northwestern Railroad Company, Inc. (operating as the Texas-New Mexico Railroad), Chicago Terminal Railroad, Mount Hood Railroad, San Luis & Rio Grande Railroad, Saratoga & North Creek Railway, the West Texas & Lubbock Railway Company, and the Santa Cruz and Monterey Bay Railway Company. In addition, Iowa Pacific directly controls the Rusk, Palestine & Pacific Railroad. Cape currently owns Mass Coastal and Cape Cod Central Railroad (Cape Cod), an intrastate passenger excursion railroad.

Mass Coastal operates a network of about 100 miles of track and trackage rights in southeastern Massachusetts and on Cape Cod. Applicants state that the purpose of the transaction is to improve the revenue base of Cape's two subsidiaries, Mass Coastal and Cape Cod, through access to Iowa Pacific's greater freight and passenger marketing resources, and to achieve economies of scale through centralization of administrative functions.

Applicants state that they propose to consummate the transaction on or about November 12, 2012. The earliest this transaction can be consummated is November 11, 2012, the effective date of the exemption (30 days after the verified notice was filed).

Applicants represent that: (1) The rail line to be operated by Mass Coastal does not connect with the rail lines of any other carriers controlled by Iowa Pacific through Permian or by Iowa Pacific directly; (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines of the carriers; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 2, 2012 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35684, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, Strasburger & Price, LLP, 1700 K Street NW., Suite 640, Washington, DC 20006.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: October 23, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–26371 Filed 10–25–12; 8:45 am]

BILLING CODE 4915–01–P

[2] On October 9, 2012, applicants submitted a copy of the voting trust agreement to the Board for an informal, nonbinding opinion asking whether the voting trust would sufficiently insulate the applicants from unauthorized control of Cape and its subsidiaries, pending approval or exemption of the subject transaction by the Board. In a letter dated October 12, 2012, the Director of the Office of Proceedings informed the applicants that it is her informal opinion that the proposed voting trust agreement would effectively insulate the applicants from unauthorized control of Cape.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 23, 2012.

The Department of the Treasury will submit 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, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before November 26, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–NEW.

Type of Review: New collection.

Title: IRS Applicant Contact Information.

Form: 14145.

Abstract: Form 14145, IRS Applicant Contact Information, is used by the IRS Recruitment Office to collect contact information from individuals who may be interested in working for the IRS now, or at any time in the future (potential applicants).

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 66,085.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–26346 Filed 10–25–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Request for Comment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning TD 9002.

DATES: Written comments should be received on or before December 26, 2012] to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: TD 9002—Agent for Consolidated Group (REG–103805–99).

OMB Number: 1545–1699.

Abstract: The information is needed in order for a terminating common parent of a consolidated group to designate a substitute agent for the group and receive approval of the Commissioner, or for a default substitute agent to notify the Commissioner that it is the default substitute agent, pursuant to § 1.1502–77(d). The Commissioner will use the information to determine whether to approve the designation of the substitute agent (if approval is required) and to change the IRS's records to reflect the information about the substitute agent.

Type of Review: Extension of a currently approved collection.

Affected Public: Private sector: Not-for-profit institutions

Estimated Number of Respondents: 100.

Estimated Number of Responses: 100.

Estimated Hours per Respondent: 2.

Estimated Total Annual Burden Hours: 200.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 22, 2010.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–26318 Filed 10–25–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Funding Availability Under Supportive Services for Veteran Families Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of funding availability.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for supportive services grants under the SSVF Program. This Notice of Funding Availability (NOFA) contains information concerning the Supportive Services for Veteran Families (SSVF) Program, initial and renewal supportive services grant application processes, and amount of funding available. The Funding Opportunity Number is VA–SSVF–120112. The Catalog of Federal Domestic Assistance Number is 62.033.

Applications for initial and renewal supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. Eastern Time on February 1, 2013. In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other delivery-related problems.

For a Copy of the Application Package: Copies of the application can be downloaded directly from the SSVF Program Web site at: *www.va.gov/homeless/ssvf.asp.* Questions should be referred to the SSVF Program Office via phone at (877) 737–0111 (toll-free number) or via email at *SSVF@va.gov.* For detailed SSVF Program information and requirements, see 38 CFR Part 62.

Submission of Application Package: Two completed, collated, hard copies of the application and two compact discs (CD) containing electronic versions of the entire application are required. Each application copy must (i) be fastened with a binder clip; and (ii) contain tabs listing the major sections of and exhibits to the application. Each CD must be labeled with the applicant's name and must contain an electronic copy of the entire application. A budget template must be attached in Excel format on the CD, but all other application materials may be attached in a PDF or other format. The application copies and CDs must be submitted to the following address: Supportive Services for Veteran Families Program Office, National Center on Homelessness Among Veterans, 4100 Chester Avenue, Suite 201, Philadelphia, PA 19104. Applicants must submit two hard copies and two CDs. Applications may not be sent by facsimile (FAX). Applications must be received in the SSVF Program Office by 4:00 p.m. Eastern Time on the application deadline date. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. To encourage the equitable distribution of supportive services grants across geographic regions, in accordance with 38 CFR 62.23(d)(2), an eligible entity may apply for a total of $2 million per year in funding per grant. See Section II.C. of this NOFA for maximum allowable grant amounts.

Technical Assistance: Information regarding how to obtain technical assistance with the preparation of an initial or renewal supportive services grant application is available on the SSVF Program Web site at: *http://www.va.gov/HOMELESS/SSVF.asp.*

FOR FURTHER INFORMATION CONTACT: John Kuhn, Supportive Services for Veteran Families Program Office, National Center on Homelessness Among Veterans, 4100 Chester Avenue, Suite 201, Philadelphia, PA 19104; (877) 737–0111 (this is a toll-free number); *SSVF@va.gov.*

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

A. *Purpose:* The SSVF Program's purpose is to provide supportive services grants to private non-profit organizations and consumer cooperatives who will coordinate or provide supportive services to very low-income Veteran families who: (i) Are residing in permanent housing, (ii) are homeless and scheduled to become residents of permanent housing within a specified time period, or (iii) after

exiting permanent housing within a specified time period, are seeking other housing that is responsive to such very low-income Veteran family's needs and preferences.

B. *Definitions:* Sections 62.2 and 62.11(a) of title 38, CFR, contain definitions of terms used in the SSVF Program. In addition to the definitions included in those sections, this NOFA introduces two program areas: Emergency Housing Assistance and General Housing Stability Assistance.

Emergency Housing Assistance means the provision of up to 30 days of temporary housing that does not require the participant to sign a lease or occupancy agreement. The cost cannot exceed the reasonable community standard for such housing. Emergency housing is limited to short-term commercial residences (private residences are not eligible for such funding) not already funded to provide on-demand emergency shelter (such as emergency congregate shelters). By authorizing the limited provision of SSVF funded emergency housing, grantees will be able to ensure that participants do not become homeless while they transition to permanent housing or otherwise be put at risk pending placement in permanent housing. Appropriate provision of emergency housing is limited to those cases in which no space is available at a community shelter that would be appropriate for placement of a family unit and where permanent housing has been identified and secured but the participant cannot immediately be placed in that housing. Only families with children under the age of 18 may receive such assistance; individuals are not eligible for SSVF funded emergency housing placement. In the event that longer term transitional housing or emergency housing is needed without such restrictions, VA offers community-based alternatives including, the Grant and Per Diem Program and the Health Care for Homeless Veterans contract residential care program, as well as a variety of VA based residential care programs.

General Housing Stability Assistance means the provision of goods or payment of expenses not included in other sections but which are directly related to supporting a participant's housing stability. This is a new category that may offer a maximum of $1,500 in assistance per participant. Such assistance, when not available through existing mainstream and community resources, may include: (1) Items necessary for a participant's life or safety that are provided to the participant by a grantee on a temporary basis in order to address the participant's emergency situation (limited to $500 per SSVF Program under 38 CFR 62.34); (2) Expenses associated with gaining or keeping employment such as obtaining uniforms, tools, certifications, and licenses; (3) Expenses associated with moving into permanent housing, such as obtaining basic kitchen utensils, bedding, and other supplies; and (4) Expenses necessary for securing appropriate permanent housing such as fees for applications, brokerage fees, or background checks.

C. *Approach:* Grantees will be expected to leverage supportive services grant funds to enhance the housing stability of very low-income Veteran families who are occupying permanent housing. In doing so, grantees are required to establish relationships with local community resources. The aim of the provision of supportive services is to assist very low-income Veteran families residing in permanent housing to remain stably housed and to rapidly transition to stable housing (i) very low-income Veteran families who are homeless and scheduled to become residents of permanent housing within 90 days, including those leaving VA's Homeless Providers Grant and Per Diem projects and (ii) very low-income Veteran families who have exited permanent housing within the previous 90 days to seek other housing that is responsive to their needs and preferences. Accordingly, VA encourages eligible entities skilled in facilitating housing stability and currently operating rapid re-housing programs (*i.e.,* administering the Department of Housing and Urban Development's (HUD) Homelessness Prevention and Rapid Re-Housing Program, HUD's Emergency Solution Grant (ESG), or other comparable Federal or community resources) to apply for supportive services grants. The SSVF Program is not intended to provide long-term support for participants, nor will it be able to address all of the financial and supportive services needs of participants that affect housing stability. Rather, when participants require long-term support, grantees should focus on connecting such participants to mainstream Federal and community resources (*e.g.,* HUD–VA Supportive Housing (VASH) program, HUD Housing Choice Voucher programs, McKinney-Vento funded supportive housing programs, Temporary Assistance for Needy Families, etc.) that can provide ongoing support as required.

Assistance in obtaining or retaining permanent housing is a fundamental goal of the SSVF program. Grantees are expected to provide case management services in accordance with 38 CFR 62.31. Such case management should include tenant counseling; mediation with landlords; and outreach to landlords.

D. *Authority:* Funding applied for under this NOFA is authorized by 38 U.S.C. 2044, as recently amended by the Veterans Health Care Facilities Capital Improvement Act of 2011, Public Law 112–37. VA implements the SSVF program by regulation in 38 CFR part 62. Funds made available under this NOFA are subject to the requirements of the aforementioned regulations and other applicable laws and regulations.

E. *Requirements for the Use of Supportive Services Grant Funds:* The grantee's request for funding must be consistent with the limitations and uses of supportive services grant funds set forth in 38 CFR part 62 and this NOFA. In accordance with the regulations and this NOFA, the following requirements apply to supportive services grants awarded under this NOFA:

(1) Grantees may use a maximum of 10 percent of supportive services grant funds for administrative costs identified in § 62.70.

(2) Grantees must use a minimum of 60 percent of supportive services grant funds to serve very low-income Veteran families who either (i) are homeless and scheduled to become residents of permanent housing within 90 days pending the location or development of housing suitable for permanent housing, as described in § 62.11(a)(2), or (ii) have exited permanent housing within the previous 90 days to seek other housing that is responsive to their needs and preferences, as described in § 62.11(a)(3). (**Note:** Grantees may request a waiver to decrease this minimum to 40 percent, discussed in section V.B.5.i.)

(3) Grantees may use a maximum of 50 percent of supportive services grant funds to provide the supportive service of temporary financial assistance paid directly to a third party on behalf of a participant for child care, emergency housing assistance, transportation, rental assistance, utility-fee payment assistance, security deposits, utility deposits, moving costs, and general housing stability assistance (which includes emergency supplies) in accordance with §§ 62.33 and 62.34.

F. *Guidance for the Use of Supportive Services Grant Funds:* It is VA policy to support a ''Housing First'' model in addressing and ending homelessness. Housing First establishes housing

stability as the primary intervention in working with homeless persons. The Housing First approach is based on the concept that a homeless individual or household's first and primary need is to obtain stable housing, and that other issues that may affect the household can and should be addressed once housing is obtained. Housing is not contingent on compliance with services—instead, participants must comply with a standard lease agreement and are provided with the services and supports that are necessary to help them do so successfully.

1. Consistent with the Housing First model supported by VA, grantees are expected to offer the following supportive services: Housing counseling; assisting participants in understanding leases; securing utilities; making moving arrangements; provide representative payee services concerning rent and utilities when needed; and mediation and outreach to property owners related to locating or retaining housing. Grantees may also assist participants by providing rental assistance, security or utility deposits, moving costs or emergency supplies; or using other Federal resources, such as the ESG, or supportive services grant funds subject to the limitations described in this NOFA and 38 CFR 62.34.

2. VA recognizes that extremely low-income Veterans face greater barriers to permanent housing placement. In order to support grantees' efforts to serve this population, VA has proposed new program regulations that will expand temporary financial assistance that may be offered to these participants. Grantees must consider the proposed rule when developing their response to this NOFA.

3. Grantees are encouraged to provide, or assist participants in obtaining, legal services relevant to issues that interfere with the participants' ability to obtain or retain permanent housing. **Note:** Legal services provided may be protected from release or review by the grantee or VA under attorney-client privilege. Support for legal services can include paying for court filing fees to assist a participant with issues that interfere with the participant's ability to obtain or retain permanent housing or supportive services, including issues that affect the participant's employability and financial security.

4. Notwithstanding any other section in this part, grantees are not authorized to use SSVF funds to pay for the following: (i) Mortgage costs or costs needed by homeowners to assist with any fees, taxes, or other costs of refinancing; (ii) construction or the cost of housing rehabilitation; (iii) credit card bills or other consumer debt; (iv) medical or dental care and medicines; (v) mental health, substance use, or other therapeutic interventions designed to treat Axis I or II diagnostic conditions in the Diagnostic and Statistical Manual of Mental Disorders fourth edition text revision; and (vi) home care and home health aides typically used to provide care in support of daily living activities. This includes care that is focused on treatment for an injury or illness, rehabilitation, or other assistance generally required to assist those with handicaps or other physical limitations; (vii) pet care; (viii) entertainment activities; (ix) direct cash assistance to program participants; or (x) court-ordered judgments or fines.

5. When serving participants who are residing in permanent housing, it is required that the defining question to ask is: ''Would this individual or family be homeless but for this assistance?'' The grantee must use a VA-approved screening tool with criteria that targets those most at-risk of homelessness. To qualify for SSVF services under Category 1 (homeless prevention), the participants must not have sufficient resources or support networks, *e.g.,* family, friends, faith-based or other social networks, immediately available to prevent them from becoming homeless. To further qualify for services under Category 1, the grantee must document that the participant meets at least one of the following conditions:

(a) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(b) Is living in the home of another because of economic hardship;

(c) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

(d) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, state, or local government programs for low-income individuals;

(e) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, or correctional institution) without a stable housing plan; or

(f) Otherwise, lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved screening tool.

6. Where ESG funds or other funds from community resources are not readily available, grantees may choose to utilize supportive services grants, subject to the limitations described in this NOFA and in 38 CFR 62.33 and 62.34, to provide temporary financial assistance. Such assistance may, subject to the limitations in this NOFA and 38 CFR Part 62, be paid directly to a third party on behalf of a participant for child care, transportation, family emergency housing assistance, rental assistance, utility-fee payment assistance, security or utility deposits, moving costs, and general housing stability assistance as necessary.

II. Award Information

A. *Overview:* This NOFA announces the availability of funds for supportive services grants under the SSVF Program and pertains to proposals for initial and renewal supportive services grant programs.

B. *Funding Priorities:* The funding priorities for this NOFA are as follows:

1. Funding Priority 1. Funding Priority 1 is for existing SSVF Program grantees seeking to renew their supportive services grants. To be eligible for renewal of a supportive services grant, the grantee's program concept must be generally consistent with the program concept of the grantee's current grant award. Renewal applications can request a grant amount that is no more than 200 percent of the grantee's current grant award (subject to the allocation limitations described in Section E of this NOFA). Requests for funding increases must be based both on commensurate increases in the number of participants served and expanding access to HUD's Continuums of Care currently not served by an SSVF program. (**Note:** If an existing grantee would like to substantially modify an existing program, the grantee may submit an initial application and apply under Funding Priority 2. Grantees cannot submit more than one application serving the same geographic area.) An existing grantee applying for funding for a program that is substantially the same as their existing program, may only apply under Funding Priority 1. Approximately $140 million of the up to $300 million available may be awarded depending on funding available under Funding Priority 1. Should not enough applications be funded under Funding Priority 1, funds not expended in this priority will fall to Funding Priority 2.

2. Funding Priority 2. Funding Priority 2 is for eligible entities applying for initial supportive services grants.

C. *Allocation of Funds:* If funding for Priority 1 projects is exhausted, funding may be awarded depending on availability for initial and renewal

supportive services grants, to be funded under this NOFA for a 1- to 3-year period. The following requirements apply to supportive services grants awarded under this NOFA:

(1) Each grant cannot exceed $2 million per year.

(2) The total number of supportive services grants awarded to a grantee cannot exceed five grants nationwide per year.

(3) Applicants should fill out separate applications for each supportive services funding request.

D. *Supportive Services Grant Award Period:* Most supportive services grants awarded under this NOFA will be for a 1-year period. Selected grants renewed under Funding Priority 1 may be eligible for a 2- or 3-year award (see I.1 and N.6).

III. Eligibility Information

A. *Eligible Applicants:* In order to be eligible, an applicant must qualify as a private non-profit organization (Section 501 (c) (3) tax exempt status is required) or a consumer cooperative as has the meaning given such term in Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q). In addition, tribally designated housing entities (as defined in Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4104)) are eligible.

B. *Cost Sharing or Matching:* This section is not applicable to the SSVF program.

IV. Application and Submission Information

A. *Address To Request Application Package:* Download directly from the SSVF Program Web site at *www.va.gov/homeless/ssvf.asp* or send a written request for an application to Supportive Services for Veteran Families Program Office, National Center on Homelessness Among Veterans, 4100 Chester Avenue, Suite 201, Philadelphia, PA 19104. Any questions regarding this process should be referred to the SSVF Program Office via phone at (877) 737–0111 (toll-free number) or via email at *SSVF@va.gov.* For detailed SSVF Program information and requirements, see 38 CFR part 62.

B. *Content and Form of Application:* Two completed, collated, hard copies of the application and two compact discs (CDs) containing electronic versions of the entire application are required. Each application copy must (i) be fastened with a binder clip; and (ii) contain tabs listing the major sections of and exhibits to the application. Each CD must be labeled with the applicant's name and must contain an electronic copy of the entire application. A budget template must be attached in Excel format on the CD, but all other application materials may be attached in a PDF or other format.

C. *Submission Dates and Times:* Applications for initial and renewal supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. Eastern Time on February 1, 2013. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. Additionally, in the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other delivery-related problems. It should also be noted that in order to encourage the equitable distribution of supportive services grants across geographic regions, in accordance with 38 CFR 62.23(d)(2), an eligible entity may apply for a total of $2 million per year in funding per grant.

D. *Intergovernmental Review:* This section is not applicable to the SSVF Program.

E. *Funding Restrictions:* Approximately $300 million may be awarded depending on funding availability for initial and renewal supportive services grants to be funded under this NOFA for a 1- to 3-year period. The following requirements apply to supportive services grants awarded under this NOFA:

(1) Each grant cannot exceed $2 million per year.

(2) The total number of supportive services grants awarded to a grantee cannot exceed 5 grants nationwide per year.

(3) Applicants should fill out separate applications for each supportive services funding request.

F. *Other Submission Requirements:*

(1) The funding priorities for this NOFA are as follows:

(a) Funding Priority 1. Funding Priority 1 is for existing SSVF Program grantees seeking to renew their supportive services grants. To be eligible for renewal of a supportive services grant, the grantee's program concept must be generally consistent with the program concept of the grantee's current grant award. Renewal applications can request a grant amount that is no more than 200 percent of the grantee's current grant award (subject to the allocation limitations described in Section E of this NOFA). Requests for funding increases must be based on commensurate increases in the number of participants served. (Note: if an existing grantee would like to substantially modify an existing program, the grantee may submit an initial application and apply under Funding Priority 2. Grantees cannot submit more than one application serving the same geographic area). An existing grantee applying for funding for a program that is substantially the same as their existing program, may only apply under Funding Priority 1. Approximately $140 million may be available under Funding Priority 1 depending on the availability of funds. Should not enough applications be funded under Funding Priority 1, funds not expended in this priority will fall to Funding Priority 2.

(b) Funding Priority 2. Funding Priority 2 is for eligible entities applying for initial supportive services grants.

(2) Additional supportive services grant application requirements are specified in the initial and renewal application packages. Submission of an incorrect or incomplete application package will result in the application being rejected during threshold review. The application packages contain all required forms and certifications. Selections will be made based on criteria described in 38 CFR part 62 and this NOFA. Applicants and grantees will be notified of any additional information needed to confirm or clarify information provided in the application and the deadline by which to submit such information. The application copies and CDs must be submitted to the following address: Supportive Services for Veteran Families Program Office, National Center on Homelessness Among Veterans, 4100 Chester Avenue, Suite 201, Philadelphia, PA 19104. Applicants must submit two hard copies and two CDs. Applications may not be sent by facsimile (FAX).

V. Application Review Information

A. Criteria

1. VA will only score applicants that meet the following threshold requirements:

(a) The application is filed within the time period established in the Notice of Fund Availability, and any additional information or documentation requested by VA under § 62.20(c) is provided within the time frame established by VA;

(b) The application is completed in all parts;

(c) The applicant is an eligible entity;

(d) The activities for which the supportive services grant is requested are eligible for funding under this part;

(e) The applicant's proposed participants are eligible to receive supportive services under this part;

(f) The applicant agrees to comply with the requirements of this part;

(g) The applicant does not have an outstanding obligation to the Federal government that is in arrears and does not have an overdue or unsatisfactory response to an audit; and

(h) The applicant is not in default by failing to meet the requirements for any previous Federal assistance.

2. VA will use the following criteria to score applicants who are applying for a supportive services grant:

(a) VA will award up to 35 points based on the background, qualifications, experience, and past performance, of the applicant, and any subcontractors identified by the applicant in the supportive services grant application.

(b) VA will award up to 25 points based on the applicant's program concept and supportive services plan.

(c) VA will award up to 15 points based on the applicant's quality assurance and evaluation plan.

(d) VA will award up to 15 points based on the applicant's financial capability and plan.

(e) VA will award up to 10 points based on the applicant's area or community linkages and relations.

3. VA will use the following process to select applicants to receive supportive services grants:

(a) VA will score all applicants that meet the threshold requirements set forth in § 62.21 using the scoring criteria set forth in § 62.22.

4. VA will use the following criteria to score grantees applying for renewal of a supportive services grant:

(a) VA will award up to 55 points based on the success of the grantee's program.

(b) VA will award up to 30 points based on the cost-effectiveness of the grantee's program.

(c) VA will award up to 15 points based on the extent to which the grantee's program complies with Supportive Services for Veteran Families Program goals and requirements.

5. VA will use the following process to select grantees applying for renewal of supportive services grants:

(a) So long as the grantee continues to meet the threshold requirements set forth in § 62.21, VA will score the grantee using the scoring criteria set forth in § 62.24. Detailed information regarding application criteria can be found in 38 CFR 62.21–62.25.

B. Review and Selection Process

VA will review all initial and renewal supportive services grant applications in response to this NOFA according to the following steps:

1. Score all applications that meet the threshold requirements described in 38 CFR 62.21.

2. Group applications within the applicable funding priorities set forth in Section II.B. of this NOFA.

3. Rank those applications in Funding Priority 1 (renewal supportive services grants) who score at least 80 cumulative points and receive at least one point under each of the categories identified in § 62.24, paragraphs (a), (b), and (c). The applications will be ranked in order from highest to lowest scores.

4. Rank those applications in Funding Priority 2 (initial supportive services grants) who score at least 70 cumulative points and receive at least one point under each of the categories identified in § 62.22, paragraphs (a), (b), (c), (d), and (e). The applications will be ranked in order from highest to lowest scores.

5. Utilize the ranked scores of applications as the primary basis for selection. However, in accordance with § 62.23(d), VA will utilize the following considerations to select applicants for funding.

i. Preference applications that provide or coordinate the provision of supportive services for very low-income Veteran families transitioning from homelessness to permanent housing. Consistent with this preference, applicants are required to serve no less than 60 percent of their participants and spend no less than 60 percent of all budgeted temporary financial assistance on homeless participants defined in § 62.11(a)(2) and (a)(3). Waivers to this 60 percent requirement may be requested when grantees can demonstrate significant local progress towards eliminating homelessness in the target service area. Waiver requests must include data from authoritative sources such as HUD's Veteran's Supplemental Chapter to the Annual Homeless Assessment Report, annual Point-In-Time Counts and evidence of decreased demand for emergency shelter and transitional housing. Waivers can reduce this 60 percent minimum funding requirement to a 40 percent minimum, with the balance available for participants at imminent risk of homelessness as defined in § 62.11(a)(1).

ii. To the extent practicable, ensure that supportive services grants are equitably distributed across geographic regions, including rural communities and tribal lands.

6. Subject to the considerations noted in paragraph B.5 above, VA will fund the highest-ranked applications for which funding is available, within the highest funding priority group. To the extent funding is available and subject to the considerations noted in paragraph B.5 above, VA will select applications in the next highest funding priority group based on their rank within that group.

VI. Award Administration Information

A. Award Notices

Although subject to change, the SSVF Program Office expects to announce grant recipients by mid-summer 2013. The initial announcement will be made via the SSVF Web site at *www.va.gov/homeless/ssvf.asp*. Following the initial announcement, the Program Office will email and mail via United Postal Service (UPS), a notification letter to the grant recipients. The notification letter is not an authorization to begin performance, but will provide guidance as to the next steps the recipient must follow. Applicants that are not selected to receive a support services grant will be mailed a declination letter via UPS within 2 weeks of the initial announcement.

B. Administrative and National Policy Requirements

It is VA's policy to support a ''Housing First'' model in addressing and ending homelessness. Housing First establishes housing stability as the primary intervention in working with homeless persons. The Housing First approach is based on the concept that a homeless individual or household's first and primary need is to obtain stable housing, and that other issues that may affect the household can and should be addressed once housing is obtained. Housing is not contingent on compliance with services—instead, participants must comply with a standard lease agreement and are provided with the services and supports that are necessary to help them do so successfully.

Consistent with the Housing First model supported by VA, grantees are expected to offer the following supportive services: Housing counseling; assisting participants in understanding leases; securing utilities; making moving arrangements; provide representative payee services concerning rent and utilities when needed; and mediation and outreach to property owners related to locating or retaining housing. Grantees may also

assist participants by providing rental assistance, security or utility deposits, moving costs or emergency supplies, using other Federal resources, such as the ESG, or supportive services grant funds subject to the limitations described in this NOFA and 38 CFR 62.34.

C. Reporting

VA places great emphasis on the responsibility and accountability of grantees. As described in 38 CFR 62.63 and 62.71, VA has procedures in place to monitor supportive services provided to participants and outcomes associated with the supportive services provided under the SSVF Program. Applicants should be aware of the following:

1. Upon execution of a supportive services grant agreement with VA, grantees will have a VA regional coordinator assigned by the SSVF Program Office who will provide oversight and monitor supportive services provided to participants.

2. Grantees will be required to enter data into a Homeless Management Information System (HMIS) Web-based software application. This data will consist of information on the participants served and types of supportive services provided by grantees. Grantees must treat the data for activities funded by the SSVF Program separate from that of activities funded by other programs. Grantees will be required to work with their HMIS Administrators to export client-level data for activities funded by the SSVF Program to VA on at least a monthly basis.

3. Monitoring will also include the submittal of quarterly and annual financial and performance reports by the grantee. The grantee will be expected to demonstrate adherence to the grantee's proposed program concept, as described in the grantee's application.

4. Grantees will be required to provide each participant with a satisfaction survey which can be submitted by the participant directly to VA, within 45 to 60 days of the participant's entry into the grantee's program and again within 30 days of such participant's pending exit from the grantee's program.

5. Grantees will be assessed based on their ability to meet critical performance measures. In addition to meeting program requirements defined by the regulations and NOFA, grantees will be assessed on their ability to place participants into housing and the housing retention rates of participants served. Higher placement for homeless participants and higher housing retention rates for at-risk participants are expected for very-low income Veterans' families when compared to extremely low-income Veteran families.

6. Organizations receiving awards through Funding Priority 1 and have had ongoing SSVF program operation for at least 1 year (as measured by the start of initial SSVF services until February 1, 2013, may be eligible for 2- or 3-year awards. Grantees meeting outcome goals defined by VA and in substantial compliance with their grant agreements (defined by meeting targets and having no outstanding corrective action plans) are eligible for 2-year renewals. Grantees meeting the requirements for a 2-year renewal and receive 3-year accreditation from the Commission on Accreditation of Rehabilitation Facilities in Employment and Community Services are eligible for a 3-year grant renewal. If awarded a multiple year renewal, grantees may be eligible for funding increases as defined in NOFA's that correspond to years 2 and 3 of their renewal funding.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: John Kuhn, Supportive Services for Veteran Families Program Office, National Center on Homelessness Among Veterans, 4100 Chester Avenue, Suite 201, Philadelphia, PA 19104; (877) 737–0111 (this is a toll-free number); *SSVF@va.gov*.

VIII. Other Information

A. *VA's Goals and Objectives for Funds Awarded Under this NOFA:* In accordance with 38 CFR 62.22(b)(6), VA will evaluate an applicant's ability to meet VA's goals and objectives for the SSVF Program. VA's goals and objectives include the provision of supportive services designed to enhance the housing stability and independent living skills of very low-income Veteran families occupying permanent housing across geographic regions. For purposes of this NOFA, VA's goals and objectives also include the provision of supportive services designed to rapidly re-house or prevent homelessness among people in the following target populations who also meet all requirements for being part of a very low-income Veteran family occupying permanent housing:

1. Veteran families earning less than 30 percent of area median income as most recently published by HUD for programs under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (*http://www.huduser.org*).

2. Veterans with at least one dependent family member.

3. Veterans returning from Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn.

4. Veteran families located in a community, as defined by HUD's Continuums of Care, not currently served by a SSVF grantee.

5. Veteran families located in a rural area.

6. Veteran families located on Indian Tribal Property.

B. *Payments of Supportive Services Grant Funds:* Grantees will receive payments electronically through the U.S. Department of Health and Human Services Payment Management System. Grantees will have the ability to request payments as frequently as they choose subject to the following limitations:

1. During the first quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 35 percent of the total supportive services grant award without written approval by VA.

2. By the end of the second quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 60 percent of the total supportive services grant award without written approval by VA.

3. By the end of the third quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 80 percent of the total supportive services grant award without written approval by VA.

4. By the end of the fourth quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 100 percent of the total supportive services grant award.

Dated: October 9, 2012.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2012–26376 Filed 10–25–12; 8:45 am]

BILLING CODE 8320–01–P

Reader Aids

Federal Register

Vol. 77, No. 208

Friday, October 26, 2012

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, OCTOBER

59709–60028 1
60029–60276 2
60277–60602 3
60603–60882 4
60883–61228 5
61229–61506 9
61507–61720 10
61721–62132 11
62133–62416 12
62417–63200 15
63201–63710 16
63711–64022 17
64023–64220 18
64221–64408 19
64409–64692 22
64693–64888 23
64889–65096 24
65097–65250 25
65251–65454 26

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8871 60277
8872 60279
8873 60603
8874 60605
8875 60607
8876 60609
8877 60611
8878 60613
8879 60615
8880 60617
8881 62133
8882 62135
8883 62137
8884 62413
8885 63201
8886 63203
8887 63709
8888 64021
8889 64218
8890 64407
8891 65093
8892 65095

Executive Orders:
13627 60029
13622 (amended by 13628) 62139
13628 62139

Administrative Orders:
Memorandums:
Memorandum of September 27, 2012 60035
Notices:
Notice of September 11, 2012 (corrected) 60037
Notice of October 17, 2012 64221
Notice of October 24, 2012 65251
Order of September 28, 2012 60281
Presidential Determinations:
No. 2012–17 of September 28, 2012 61507
No. 2012–18 of September 28, 2012 61509

5 CFR

532 63205
1200 62350
1201 62350
1203 62350
1208 62350
1209 62350
1631 ..... 60039, 61229

7 CFR

301 59709
331 61056

8 CFR

217 64409

9 CFR

121 61056

10 CFR

50 60039
429 ..... 59712, 59719
430 ..... 59712, 59719

Proposed Rules:
51 65137
72 63254
110 64435

11 CFR

Proposed Rules:
104 65332

12 CFR

9 61229
46 61238
219 65098
252 ..... 62378, 62396
325 62417
380 63205
Ch. VI 65097
611 60582
612 60582
619 60582
620 60582
630 60582

Proposed Rules:
45 60057
48 62177
237 60057
324 ..... 60057, 63763
624 60057
701 65139
702 65141
741 ..... 65139, 65141
791 65141
1070 64241
1221 60057
1238 60948

14 CFR

1 62147
25 ..... 64023, 64025, 64029
29 60883
39 ..... 59726, 59728, 59732, 60285, 60288, 60296, 60887, 60889, 60891, 61511, 63215, 63711, 63712, 63714, 63716, 64693, 64695, 64696, 64699, 64701, 64704, 64706, 64709, 64711
61 61721

71 .....61248, 64714, 64889, 65253, 65254, 65255
95 65256
97 .....59735, 59738, 62427, 62429
121 63217
400 61513
440 63221
1204 .....60619, 65099
1212 60620

Proposed Rules:

39 .....59873, 60060, 60062, 60064, 60073, 60075, 60323, 60325, 60331, 60651, 60653, 60655, 60658, 61303, 61539, 61542, 61548, 61550, 61731, 62182, 62466, 63260, 63262, 63264, 63266, 63268, 63270, 63272, 63275, 63281, 63282, 63285, 64053, 64242, 64437, 64439, 64442, 64763, 64765, 64767, 65142, 65144, 65146, 65148
71 .....60660, 61304, 61306, 62468, 64444, 64919, 65332

15 CFR

744 61249
902 63719

16 CFR

2 65099
4 65099
260 62122
1101 61513

Proposed Rules:

1112 64055
1218 64055

17 CFR

143 65100
232 62431

Proposed Rules:

275 62185

18 CFR

35 .....61896, 64890
357 59739
375 59745

Proposed Rules:

40 .....64920, 64935

19 CFR

10 64031
12 64032
24 64031
162 64031
163 64031
178 64031

Proposed Rules:

210 60952

20 CFR

655 60040

21 CFR

510 .....60301, 60622, 64715
520 60622
522 .....60301, 64715
524 .....60301, 64715
529 64715
558 .....60301, 60622, 64715
1308 64032

Proposed Rules:

73 65150
172 65340
1308 63766

23 CFR

Proposed Rules:

771 59875
1200 60956

25 CFR

36 60041
542 60625
543 60625

26 CFR

301 64033

Proposed Rules:

1 .....59878, 60959, 63287, 64768
20 60960
25 60960

27 CFR

9 64033

28 CFR

16 61275

29 CFR

1910 62433
1915 62433
1926 62433
4022 62433

31 CFR

29 64223
560 64664
1010 59747

32 CFR

706 63224

Proposed Rules:

300 62469
1285 62469

33 CFR

100 .....59749, 60302, 63720, 63722
104 62434
117 .....60896, 63725, 63727, 64036, 64411
162 62435
165 .....59749, 60042, 60044, 60897, 60899, 60901, 60904, 62437, 62440, 62442, 62444, 63729, 63732, 63734, 64411, 64718, 64720, 64722, 64904, 64906
334 .....61721, 61723

Proposed Rules:

110 60081
161 64076
165 .....60960, 62473, 64943

34 CFR

36 60047

36 CFR

7 60050
230 65103

Proposed Rules:

7 62476
1195 62479

37 CFR

201 65260

Proposed Rules:

1 .....61735, 64190
2 64190
7 64190
10 64190
11 64190
41 64190
201 60333

38 CFR

3 63225
9 60304

39 CFR

20 .....64724, 64725
111 65279
966 65103

Proposed Rules:

20 64768
111 .....60334, 62446, 63771, 64775
3001 61307

40 CFR

9 61118
51 65107
52 .....59751, 59755, 60053, 60307, 60626, 60627, 60904, 60907, 60910, 60914, 60915, 61276, 61279, 61478, 61513, 61724, 62147, 62150, 62159, 62449, 62452, 62454, 63228, 63234, 63736, 63743, 64036, 64039, 64237, 64414, 64422, 64425, 64427, 64734, 64737, 64908, 65107, 65119, 65125, 65133, 65294, 65305
63 65135
80 61281
81 65310
85 62624
86 62624
180 .....60311, 60917, 61515, 63745, 64911
271 .....60919, 65314
272 59758
300 64748
600 62624
721 61118

Proposed Rules:

2 60902
52 .....59879, 60085, 60087, 60089, 60094, 60339, 60661, 62191, 62200, 62479, 63781, 64445, 64787, 65151, 65341, 65346
55 61308
58 64244
60 65351
63 60341
80 61313
81 65151
98 63538
180 63782
271 .....60963, 61326, 65351
272 59879
300 64790

41 CFR

300-3 64430
301-2 64430
301-10 64430
301-11 64430
301-52 64430
301-70 64430
301-71 64430

Proposed Rules:

301-11 64791
301-74 64791

42 CFR

73 61084
88 62167
412 .....60315, 63751, 64755
413 .....60315, 64755
424 60315
476 60315
495 64755

Proposed Rules:

73 63783

44 CFR

64 .....59762, 59764, 61518, 63753
65 59767

Proposed Rules:

67 .....59880, 61559

45 CFR

162 60629
2510 60922
2522 60922
2540 60922
2551 60922
2552 60922

46 CFR

1 59768
2 59768
6 59768
8 59768
10 .....59768, 62434
11 .....59768, 62434
12 .....59768, 62434
15 .....59768, 62434
16 59768
24 59768
25 59768
26 59768
27 59768
28 59768
30 59768
31 59768
32 59768
34 59768
35 59768
39 59768
42 59768
46 59768
50 59768
52 59768
53 59768
54 59768
56 59768
57 59768
58 59768
59 59768
61 59768
62 59768
63 59768
64 59768
67 59768
70 59768
71 59768
76 59768
77 59768
78 59768
90 59768
91 59768
92 59768
95 59768
96 59768

97 59768
98 59768
105 59768
107 59768
108 59768
109 59768
110 59768
111 59768
114 59768
117 59768
125 59768
126 59768
127 59768
128 59768
130 59768
131 59768
133 59768
134 59768
147 59768
148 59768
150 59768
151 59768
153 59768
154 59768
159 59768
160 59768
161 59768
162 59768
164 59768
167 59768
169 59768
170 59768
171 59768
172 59768
174 59768
175 59768
179 59768
180 59768
188 59768
189 59768
193 59768
194 59768
195 59768
197 59768
199 59768
401 59768
502 ....61519, 64758

Proposed Rules:

7 59881
8 60096

47 CFR

0 ....60934, 62461
4 63757
27 62461
64 ....60630, 63240, 65320
73 64758
90 ....61535, 62461

Proposed Rules:

1 60666
2 62480
15 64446
20 61330
64 60343
73 ....59882, 64792, 64946
74 64446
76 61351
90 64446
97 64947

48 CFR

504 59790
552 59790

Proposed Rules:

53 60343
1552 60667

49 CFR

33 59793
40 60318
107 60935
171 60935
172 60935
173 ....60056, 60935
175 60935
178 60935
179 60935
Ch. III 59818, 59840
303 59818
325 59818
350 59818
355 59818
356 59818
360 59818
365 ....59818, 64050
366 59818
367 59818
368 59818
369 59818
370 59818
371 ....59818, 64050
372 59818
373 59818
374 59818
375 ....59818, 64050
376 59818
377 59818
378 59818
379 59818
380 59818
381 59818
382 59818
383 59818
384 59818
385 ....59818, 64759
386 59818
387 59818
388 59818
389 59818
390 59818
391 59818
392 59818
393 59818
395 59818
396 59818
397 59818
398 59818
399 59818
450 59768
451 59768
452 59768
453 59768
523 62624
531 62624
533 62624
536 ....62624, 64051
537 62624
593 59829
821 ....63242, 63245
826 63245
1022 64431

Proposed Rules:

26 65164
107 64450
172 64450
173 64450
175 64450
178 64450
213 64249
234 64077
395 64093
595 65352
622 59875

50 CFR

14 65321
17 ....60750, 61664, 63604
229 60319
300 60631
600 59842
622 ....60945, 60946, 61295, 62463, 64237
635 ....59842, 60632, 61727
648 ....61299, 64239, 64915, 65136, 65326
660 ....61728, 63758, 65329
665 60637
679 ....59852, 60321, 60649, 61300, 62464, 63719, 64240, 64762, 64917, 64918, 65330

Proposed Rules:

17 ....60180, 60208, 60238, 60510, 60778, 60804, 61375, 61836, 61938, 63440, 63928, 64272
223 61559
224 61559
622 ....62209, 64300, 65356
635 61562
648 ....59883, 64303, 64305
679 62482

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

S. 3624/P.L. 112–196

Military Commercial Driver's License Act of 2012 (Oct. 19, 2012; 126 Stat. 1459)

Last List October 11, 2012

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.