AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 78 Tuesday,

No. 29 February 12, 2013

Pages 9777–10054

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, March 12, 2013
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. 78, No. 29

Tuesday, February 12, 2013

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
NOTICES
Requests for Nominations:
Lake Tahoe Basin Federal Advisory Committee, 9883

Animal and Plant Health Inspection Service
PROPOSED RULES
Importation of Plants for Planting, 9851–9865

Antitrust Division
NOTICES
Membership Changes under National Cooperative Research and Production Act:
Sematech, Inc. d/b/a International Sematech, 9939
U.S. Photovoltaic Manufacturing Consortium, Inc., 9939–9940

Antitrust
See Antitrust Division

Army Department
See Engineers Corps

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9919–9925
Meetings:
Advisory Council for the Elimination of Tuberculosis, 9925–9926
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 9926–9927

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9927

Coast Guard
RULES
Anchorages:
Captain of the Port Puget Sound Zone, WA, 9811–9814
Drawbridge Operations:
Gulf Intracoastal Waterway, Belle Chasse, LA, 9814–9815
PROPOSED RULES
Special Local Regulations:
Moss Point Rockin' the Riverfront Festival, Robertson Lake and O'Leary Lake, Moss Point, MS, 9866–9869

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

Community Development Financial Institutions Fund
NOTICES
Meetings:
Community Development Advisory Board, 9990–9991

Community Living Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State Program Report, 9927–9928

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9991–9992

Defense Department
See Engineers Corps
See Navy Department
NOTICES
Meetings:
Department of Defense Board of Actuaries, 9890
Department of Defense Medicare-Eligible Retiree Health Care Board of Actuaries, 9890–9891
Protections Against Trafficking In Persons In Federal Contracts, 9918–9919

Education Department
RULES
Final Priorities, Requirements, Definitions, and Selection Criteria:
Supporting Effective Educator Development, 9815–9823
PROPOSED RULES
Proposed Priorities:
National Institute on Disability and Rehabilitation Research, etc., 9869–9876
NOTICES
Applications for New Awards:
Supporting Effective Educator Development Grant Program, 9892–9899
Meetings:
National Assessment Governing Board, 9900–9901
National Committee on Foreign Medical Education and Accreditation, 9899–9900

Employment and Training Administration
NOTICES
Applications for Reconsideration:
Naugatuck Valley Surgical Center Department of Saint Mary's Hospital, Waterbury, CT, 9940–9941
Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance, 9941–9943
Funding Availability; Solicitation for Grant Applications:
National Farmworker Jobs Program Grants, 9943
Investigations Regarding Eligibility to Apply for Worker Adjustment Assistance, 9943–9944

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9901–9902
Responses to Hanford Tank Farms Flammable Gas Safety Strategy; Correction, 9902

Engineers Corps
NOTICES
Meetings:
South Dakota Task Force, 9891

Environmental Protection Agency
RULES
Air Quality Implementation Plans; Approvals and Promulgations:
Volatile Organic Compounds; Group of Four Hydrofluoropolyethers; Definition Revision, 9823–9828
Implementation Plans; Approvals and Promulgations:
New Mexico; Albuquerque/Bernalillo County; Infrastructure and Interstate Transport Requirements for 1997 and 2008 Ozone, etc., 9828
National Emission Standards for Hazardous Air Pollutants:
Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants, 10006–10054
NOTICES
Permits:
National Pollutant Discharge Elimination System; Small Municipal Separate Storm Sewer Systems in New Hampshire, 9908–9910
Settlements under CERCLA:
Circle Environmental 1 and 2 Sites; Dawson, Terrell County, GA, 9910

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Airplanes, 9787–9789
Bell Helicopter Textron Helicopters, 9793–9796
Bombardier, Inc. Airplanes, 9783–9785
Cessna Aircraft Company Airplanes, 9796–9798
DASSAULT AVIATION Airplanes, 9798–9800
DG Flugzeugbau GmbH Gliders, 9792–9793
Embraer S.A. Airplanes, 9800–9802
Eurocopter France Helicopters, 9777–9779
Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company; Beech Aircraft Corporation) Airplanes, 9779–9781
Lindstrand Hot Air Balloons Ltd Appliances, 9785–9787
Pacific Aerospace Limited Airplanes, 9781–9783
Schweizer Aircraft Corporation, 9789–9791
PROPOSED RULES
Air Carrier Contract Maintenance Requirements; Extension of Comment Period, 9865–9866
NOTICES
Noise Exposure Maps:
Nashville Interntional Airport, Nashville, TN, 9988–9989

Federal Communications Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9910–9914
Meetings:
Emergency Access Advisory Committee, 9914–9915
Radio Broadcasting Services:
AM or FM Proposals to Change the Community of License, 9915

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Basel II Recordkeeping and Disclosures, 9915–9916

Federal Election Commission
NOTICES
Filling Dates:
Missouri Special Election in the 8th Congressional District, 9916–9917

Federal Emergency Management Agency
RULES
Final Flood Elevation Determinations, 9831–9845
NOTICES
Adjustment of Statewide Per Capita Indicator for Recommending a Cost Share Adjustment, 9935

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 9902–9907
Complaints:
TGP Development Company, LLC, et al. v. Arizona Public Service Co., 9907
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Josco Energy Corp., 9907
Preliminary Permit Applications:
Hydrodynamics, Inc., 9907–9908

Federal Highway Administration
NOTICES
Buy America Waivers, 9989–9990

Federal Railroad Administration
RULES
Hazardous Materials Transportation Regulations:
Minimum and Ordinary Maximum and Aggravated Maximum Civil Monetary Penalties for Violations, 9845–9848

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 9917
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 9917

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Wildlife and Plants:
Endangered Status and Designation of Critical Habitat for the Jemez Mountains Salamander, 9876–9882

Food and Drug Administration
NOTICES
Drug Shortages Task Force and Strategic Plan; Request for Comments, 9928–9929

Foreign Assets Control Office
NOTICES
Actions Taken Pursuant to Executive Order 13382, 9992–9997
Foreign Narcotics Kingpin Designation Act; Additional Designations, 9997–9998
Identification and Blocking of Aircraft Pursuant to Executive Order 13224, 9998–10000
Identification of Entity Pursuant to Executive Order 13582, 10000
Unblocking of Five Individuals as Specially Designated Global Terrorists, 10000–10001

Foreign-Trade Zones Board
NOTICES
Approvals of Subzone Status:
Zimmer Manufacturing BV, Ponce, Puerto Rico, 9884

Forest Service
NOTICES
Meetings:
National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule, 9883–9884

General Services Administration
NOTICES
Meetings:
President's Management Advisory Board, 9917–9918
Protections Against Trafficking In Persons In Federal Contracts, 9918–9919

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Community Living Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
RULES
User Fees for Filovirus Testing of Nonhuman Primate Liver Samples, 9828–9831

Health Resources and Services Administration
NOTICES
Traumatic Brain Injury State Implementation Partnership:
Non-Competitive One-Year Extension Funds for Current Grantees, 9929–9930

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Family Self-Sufficiency Program Demonstration, 9935–9936
FHA PowerSaver Home Energy Retrofit Loan Pilot Program; Extension, 9936–9937

Institute of Museum and Library Services
NOTICES
Meetings; Sunshine Act, 9945

Interior Department
See Fish and Wildlife Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Payout Requirements for Type III Supporting Organizations That Are Not Functionally Integrated; Correction, 9802–9803
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10001–10003

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Purified Carboxymethylcellulose; Netherlands, 9884–9886

International Trade Commission
NOTICES
Countervailing and Antidumping Duty Orders; Results, Extensions, Amendments, etc.:
Certain Pasta from Italy and Turkey, 9937–9938
Determination of the Base Quantity of Imports:
Ethyl Alcohol for Fuel Use, 9938
Investigations; Terminations, Modifications, Rulings, etc.:
Hearings; U.S.–Korea Free Trade Agreement – Effects on U.S. Small and Medium-Sized Enterprises, 9938–9939

Justice Department
See Antitrust Division

Labor Department
See Employment and Training Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Surface Coal Mine—Daily Inspection, Certified Person, Inspection Report, 9940

National Aeronautics and Space Administration
NOTICES
Meetings:
Protections Against Trafficking In Persons In Federal Contracts, 9918–9919

National Credit Union Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9944–9945

National Foundation on the Arts and the Humanities
See Institute of Museum and Library Services

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 9931–9932
National Cancer Institute, 9932–9933
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 9933
National Institute of Diabetes and Digestive and Kidney Diseases, 9931

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
2013 Commercial Accountability Measure and Closure for South Atlantic Vermilion Snapper, 9848–9849
Fisheries of the Exclusive Economic Zone Off Alaska:
Pollock in Statistical Area 630 in the Gulf of Alaska, 9849–9850
Fisheries of the Northeastern United States:
Summer Flounder Fishery; Quota Transfer, 9849
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Estuaries Restoration Inventory, 9887–9888

Pacific Coast Groundfish Rationalization Sociocultural Study, 9886–9887
Meetings:
Gulf of Mexico Fishery Management Council, 9888–9889
Pacific Fishery Management Council, 9888

National Science Foundation
NOTICES
Meetings:
Advisory Committee for Innovation Corps, 9945

National Telecommunications and Information Administration

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
State and Local Implementation Grant Program Application Documentation and Reporting Requirements, 9889–9890

Navy Department
NOTICES
Requests for Nominations:
Ocean Research Advisory Panel, 9891–9892

Nuclear Regulatory Commission
NOTICES
Establishment of Atomic Safety and Licensing Board:
Crow Butte Resources, Inc., 9945
Facility Operating and Combined Licenses:
Applications and Amendments Involving Proposed No Significant Hazards Considerations, etc., 9945–9951
Meetings; Sunshine Act, 9951

Personnel Management Office
NOTICES
Excepted Service, 9951–9952

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 9952–9953
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 9955–9957
C2 Options Exchange, Inc., 9959–9961
Chicago Board Options Exchange, Inc., 9953–9955, 9975–9977
Chicago Stock Exchange, Inc., 9981–9983
Financial Industry Regulatory Authority, Inc., 9963–9966, 9968–9969, 9979–9981
International Securities Exchange, LLC, 9973–9974
NASDAQ OMS BX, Inc., 9961–9963
NASDAQ OMX PHLX LLC, 9977–9979
NASDAQ Stock Market, 9969–9971
NASDAQ Stock Market LLC, 9957–9959, 9966–9968, 9972–9973
National Stock Exchange, Inc., 9983–9985
NYSE Arca, Inc., 9985–9987

Social Security Administration
NOTICES
Social Security Rulings:
Processes for Addressing Allegations of Unfairness, etc., by Administrative Law Judges; Correction, 9987

State Department
NOTICES
Call for Expert Reviewers:
2013 Supplement to Intergovernmental Panel on Climate Change Guidelines for National Greenhouse Gas Inventories; Wetlands, 9987–9988

Substance Abuse and Mental Health Services Administration

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9933–9934

Surface Mining Reclamation and Enforcement Office
RULES
Tennessee Abandoned Mine Land Program, 9803–9807
Utah Regulatory Program, 9807–9811

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 9988

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

Treasury Department
See Community Development Financial Institutions Fund
See Comptroller of the Currency
See Foreign Assets Control Office
See Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 9990

Separate Parts In This Issue

Part II
Environmental Protection Agency, 10006–10054

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.

7 CFR

Proposed Rules:

319 9851
361 9851

14 CFR

39 (12 documents) 9777, 9779, 9781, 9783, 9785, 9787, 9789, 9792, 9793, 9796, 9798, 9800

Proposed Rules:

121 9865
135 9865

26 CFR

1 9802

30 CFR

942 9803
944 9807

33 CFR

110 9811
117 9814

Proposed Rules:

100 9866

34 CFR

Subtitle A 9815

Proposed Rules:

Ch. III 9869

40 CFR

51 9823
52 9828
60 10006
63 10006

42 CFR

71 9828

44 CFR

67 9831

49 CFR

209 9845

50 CFR

622 9848
648 9849
679 9849

Proposed Rules:

17 9876

Rules and Regulations

Federal Register

Vol. 78, No. 29

Tuesday, February 12, 2013

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 39

[Docket No. FAA–2013–0075; Directorate Identifier 2012–SW–104–AD; Amendment 39–17336; AD 2013–03–02]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding an existing airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters. That AD currently requires inspecting certain tail rotor hubs (TRH) for a crack and removing any cracked TRH. This AD requires the same actions but adds more part numbers to the list of affected TRHs. This AD is prompted by further analysis that indicates that additional part-numbered TRHs must be inspected for cracks. The actions specified by this AD are intended to detect a crack in the TRH and prevent the tail rotor from jamming, which could lead to reduced or loss of control of the helicopter.

DATES: This AD becomes effective February 27, 2013.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of February 27, 2013.

We must receive comments on this AD by April 15, 2013.

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

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

Examining the AD Docket

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

For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aviation Safety Engineer, Standards Staff, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone 817–222–5328; email *robert.grant@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Discussion

On September 14, 2012, we issued AD 2012–19–09, Amendment 39–17204 (77 FR 58925, September 25, 2012), for Eurocopter Model EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters with a 10-bladed TRH, part number (P/N) 365A33351100, 365A33351101, or 365A33351102, installed. That AD requires visually inspecting the TRH for a crack and removing the TRH if a crack exists. The AD was prompted by reports of cracks on two TRHs. Those actions are intended to prevent the tail rotor from jamming, which could lead to reduced or loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2011–0144, dated July 26, 2011, to correct an unsafe condition for Eurocopter Model EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters, based on reports of 2 cases of cracked TRHs. Pending further investigation, EASA AD 2011–0144 required repetitive inspections of 10-bladed TRHs every 55 flight hours. EASA considered the actions in its AD to be interim measures and expected further AD actions.

Actions Since Existing AD Was Issued

Since we issued AD 2012–19–09, Amendment 39–17204 (77 FR 58925, September 25, 2012), Eurocopter determined that helicopters with 11-bladed TRHs must also be inspected for cracks. Based on this further analysis by Eurocopter, EASA determined that the inspections must also be applied to AS 365 N2 helicopters with an 11-bladed TRH. Therefore, EASA issued superseding EASA AD 2012–0227, dated October 29, 2012, to extend the applicability to include the 11-bladed TRHs.

FAA's Determination

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

Related Service Information

Following the report of cracks found on the TRH of a Model AS–365 helicopter, Eurocopter issued Alert Service Bulletin (ASB) No. EC 155–05A021, Revision 0, dated April 11, 2011, for Model EC 155B and EC155B1 helicopters and ASB No. AS365–05.00.60, Revision 0, dated April 11, 2011, for Model SA–365N1, AS–365N2, AS 365 N3, and some military helicopters. After a second report of TRH cracks, the ASBs were revised, dated July 20, 2011, to mandate and reduce the repetitive inspection interval from 110 flight hours to 55 flight hours.

On October 9, 2012, Eurocopter again revised ASB No. AS365–05.00.60 by issuing Revision 2 to extend the applicability to 11-bladed TRHs in Model AS 365 N3 helicopters.

The ASBs call for visually inspecting the TRH for a crack and, if a crack is found, removing the TRH. EASA classified these ASBs as mandatory and issued superseding AD No. 2012–0227 to ensure the continued airworthiness of these helicopters.

AD Requirements

This AD requires visually inspecting the TRH for a crack within 55 hours time in service (TIS) and, if a crack exists, removing the TRH from service. This inspection must be repeated at intervals not to exceed 55 hours TIS.

Interim Action

We consider this AD to be an interim action because Eurocopter is still investigating the cause of TRH cracks. If a final action is later identified, we might consider additional rulemaking.

Costs of Compliance

We estimate that this AD will affect 44 helicopters of U.S. Registry and that labor costs will average $85 a work-hour. We expect that it will take 1 work-hour to visually inspect the TRH for a crack, and that helicopters will average 5 inspections per year. Thus, we estimate a total annual cost of $425 per helicopter, and $18,700 for the U.S. operator fleet.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule, because the required corrective actions must be accomplished within 55 hours TIS, a very short time period based on the average utilization rate of the highest usage helicopter model.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–17204 (77 FR 58925, September 25, 2012) and adding the following new airworthiness directive (AD):

2013–03–02 Eurocopter France Helicopters: Amendment 39–17336; Docket No. FAA–2013–0075; Directorate Identifier 2012–SW–104–AD.

(a) Applicability

This AD applies to Eurocopter Model EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters with a 10-bladed tail rotor hub (TRH), part number (P/N) 365A33351100, 365A33351101, or 365A33351102 installed; and Model AS 365 N3 helicopters with an 11-bladed TRH, P/N 365A33216001or 365A33216003, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the TRH that could lead to a tail rotor jam, and subsequent reduced or loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2012–19–09, Amendment 39–17204, Docket No. FAA–2012–1018, Directorate Identifier 2011–SW–052–AD (77 FR 58925, September 25, 2012).

(d) Effective Date

This AD becomes effective February 27, 2013.

(e) Compliance

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

(f) Required Actions

(1) Within 55 hours time-in-service (TIS), and thereafter at intervals not to exceed 55 hours TIS, using a light, visually inspect the TRH for a crack in the entire area shown as Area C of the TRH in Figure 1 of Eurocopter Alert Service Bulletin (ASB) No. EC155–05A021, Revision 1, dated July 20, 2011, or ASB No. AS365–05.00.60, Revision 2, dated October 9, 2012, as applicable to your helicopter model. The inspection area is on the tail gearbox (TGB) side of the TRH. The TGB is shown as (c) in figures 2 and 3 of the ASBs. You must pay particular attention to the area around the screws, shown as (e) in Figure 3 of the ASBs, and the TRH between the lower part of the TGB and its fairing, shown as (d) in figures 2 and 3 of the ASBs, using details D and E of Figure 3 in the ASBs. You must turn the tail rotor by hand to inspect the entire Area C.

(2) If there is a crack on the TRH, remove the TRH from service.

(g) Special flight permits

No special flight permits will be permitted.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Standards Staff, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone 817–222–5328; email *robert.grant@faa.gov*.

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

(i) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency AD No. 2012–0227, dated October 29, 2012.

(j) Subject

Joint Aircraft Service Component (JASC) Code: 6420, Tail Rotor Head.

(k) Material Incorporated by Reference

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

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

(i) Eurocopter Alert Service Bulletin No. EC155–05A021, Revision 1, dated July 20, 2011.

(ii) Eurocopter Alert Service Bulletin No. AS365–05.00.60, Revision 2, dated October 9, 2012.

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

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on January 28, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–02581 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1111; Directorate Identifier 2012–NM–114–AD; Amendment 39–17342; AD 2013–03–07]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company; Beech Aircraft Corporation) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A airplanes. This AD was prompted by a report that the wiring for the 5-volt direct current (DC) system is undersized and does not have adequate circuit protection for the smaller gauge wire. This AD requires installing an in-line fuse in the 5-volt DC system for each of the five instrument lighting control power supplies. We are issuing this AD to prevent failure of the wiring, which could result in smoke in the cockpit, loss of cockpit lighting, and potential damage to surrounding wiring for other cockpit equipment such as the stick shaker function or angle-of-attack indicators.

DATES: This AD is effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 19, 2013.

ADDRESSES: For service information identified in this AD, contact Hawker Beechcraft Corporation, Department 62, P.O. Box 85, Wichita, KS 67201–0085; telephone 316–676–8238; fax 316–676–6706; email tmdc@hawkerbeechcraft.com; Internet *https://www.hawkerbeechcraft.com/service_support/pubs*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Richard Rejniak, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4128; fax (316) 946–4107; email: *richard.rejniak@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on November 5, 2012 (77 FR 66411). That NPRM proposed to require installing an in-line fuse in the 5-volt DC system for each of the five instrument lighting control power supplies.

Comments

We gave the public the opportunity to participate in developing this AD. We

received no comments on the NPRM (77 FR 66411, November 5, 2012) or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 421 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation	10 work-hours × $85 per hour = $850	$285	$1,135	$477,835

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–07 Hawker Beechcraft Corporation (Type Certificate Previously Held by Raytheon Aircraft Company; Beech Aircraft Corporation): Amendment 39–17342; Docket No. FAA–2012–1111; Directorate Identifier 2012–NM–114–AD.

(a) Effective Date

This AD is effective March 19, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A airplanes having serial numbers RK–45 and RK–49 through RK–353 inclusive.

(2) Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation) Model 400A airplanes (marketed as Hawker 400XP airplanes) having serial numbers RK–354 through RK–594 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 2497; Electrical Power System Wiring.

(e) Unsafe Condition

This AD was prompted by a report that the wiring for the 5-volt direct current (DC) system is undersized and does not have adequate circuit protection for the smaller gauge wire. We are issuing this AD to prevent failure of the wiring, which could result in smoke in the cockpit, loss of cockpit lighting, and potential damage to surrounding wiring for other cockpit equipment such as the stick shaker function or angle-of-attack indicators.

(f) Compliance

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

(g) Fuse Replacement

Within 400 flight hours or 12 months after the effective date of this AD, whichever occurs first, install an in-line fuse assembly in the 5-volt DC output circuit on each of the five instrument lighting power supplies, in accordance with the Accomplishment Instructions of Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010. A note in the Accomplishment Instructions of Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010, instructs operators to contact Hawker Beechcraft if any difficulty is encountered in accomplishing that service bulletin. However, any deviation from the instructions provided in Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010, must be approved as an alternative method of compliance (AMOC) under the provisions of paragraph (i) of this AD.

(h) Special Flight Permit

Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), provided that the flight is conducted under visual flight rules (VFR) day conditions.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19,

send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(j) Related Information

For more information about this AD, contact Richard Rejniak, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE–119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Hawker Beechcraft Mandatory Service Bulletin SB 33–4002, dated October 2010.

(ii) Reserved.

(3) For service information identified in this AD, contact Hawker Beechcraft Corporation, Department 62, P.O. Box 85, Wichita, KS 67201–0085; telephone 316–676–8238; fax 316–676–6706; email *tmdc@hawkerbeechcraft.com*; Internet *https://www.hawkerbeechcraft.com/service_support/pubs.*

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

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

Issued in Renton, Washington, on January 30, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02716 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1251; Directorate Identifier 2012–CE–044–AD; Amendment 39–17335; AD 2013–03–01]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for all Pacific Aerospace Limited Models FU24–954 and FU24A–954 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as aircraft operating outside the aircraft aft center of gravity (C of G) limits during parachute-drop operations. Exceeding C of G limits could result in loss of control of the aircraft. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 19, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. For service information identified in this AD, contact Pacific Aerospace Limited, Hamilton Airport, Private Bag, 3027 Hamilton, New Zealand; telephone: +64 7 843 6144; fax: +64 7 843 6134; email: *enquiries@aerospace.co.nz;* Internet: *http://www.aerospace.co.nz/.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 30, 2012 (77 FR 71357), and proposed to supersede AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010).

Since we issued AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010), information has been received that shows that the operating limitations should be different between turbine engine and piston engine Pacific Aerospace Limited Models FU24–954 and FU24A–954 airplanes.

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/FU24/182, dated October 25, 2012 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The new MCAI AD supersedes the requirements in AD DCA/FU24/179.

The new MCAI requires adding a requirement to install station marking placards inside the rear cabin walls and inserting a supplement into the airplane flight manual (AFM) specifically approved for parachuting operations that contains detailed information for determining the weight and balance of the aircraft for turbine engine airplanes. This AD also retains all actions in AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010), for all airplanes.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 71357, November 30, 2012) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 71357, November 30, 2012), for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 71357, November 30, 2012).

Costs of Compliance

We estimate that this AD will affect 1 product of U.S. registry. We also estimate that it will take about 22 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,870 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 71357, November 30, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010), and adding the following new AD:

2013–03–01 Pacific Aerospace Limited: Amendment 39–17335; Docket No. FAA–2012–1251; Directorate Identifier 2012–CE–044–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 19, 2013.

(b) Affected ADs

This AD supersedes AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010).

(c) Applicability

This AD applies to Pacific Aerospace Limited Models FU24–954 and FU24A–954 airplanes, all serial numbers, that are:

(1) certificated in any category; and

(2) modified to conduct parachute operations.

(d) Subject

Air Transport Association of America (ATA) Code 8: Leveling and Weighing.

(e) Reason

This AD was prompted by reports of aircraft operating outside the aft center of gravity (C of G) limits during parachute-drop operations. We are issuing this AD to prevent exceeding C of G limits, which could result in loss of control of the aircraft.

(f) Actions and Compliance for All Airplanes (Both Turbine and Piston Engine Airplanes) Retained From AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010)

Unless already done, do the following actions:

(1) As of October 18, 2010 (the effective date retained from AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010)), before further parachute-drop operations:

(i) Amend the airplane flight manual (AFM) to restrict maximum occupancy of the cabin aft of fuselage station (F.S) 118.84 to 6 persons. This may be done by inserting a copy of this AD into the AFM adjacent to the applicable supplement for parachuting operations; and

(ii) Fabricate a placard at least 2 by 4 inches (using at least 1/8-inch letters) and install the placard in two places, one on each side of the aft cabin, in view of all occupants as they enter and occupy the cabin which states the following: Maximum occupancy of this cabin limited to six persons for parachuting operations. Weight and balance must be confirmed for each flight.

(2) As of October 18, 2010 (the effective date retained from AD 2010–20–18, Amendment 39–16453 (75 FR 59606, September 28, 2010)), before further parachute-drop operations, the weight and balance calculation must comply with the following limitations and establish that the aircraft C of G will remain within AFM limits for the duration of the flight:

(i) Use actual weights for all occupants and their equipment to do the calculation;

(ii) Account for the positions of all occupants in the calculation. Do the calculation with the occupants' (parachuting group) positions at the most aft positions that result from the rearmost members of the group sitting against the aft cabin wall and subsequent occupants located immediately forward of them, unless a means of restraint is provided to prevent the occupants moving rearwards from their normal position; and

(iii) Keep a record of the C of G determination for each parachuting operation.

(g) New Actions and Compliance for Turbine Engine Airplanes

Within the next 15 days after March 19, 2013 (the effective date of this AD), do the following:

(1) Add fuselage station (F.S.) reference line placards inside the rear cabin walls following the instructions in Section 2.5, Placards, of the CAA Approved AFM Supplement for Aircraft Modified for Parachuting Operations, PT6 Fletcher-EX Document Reference: AIR 2817–FMS–P1, dated October 15, 2012, or Walter Fletcher Document Reference: AIR 2672–FMS–P1, dated October 15, 2012, as applicable.

(2) Insert Section 2.4, Weight and Balance, of the CAA Approved AFM Supplement for Aircraft Modified for Parachuting Operations, PT6 Fletcher-EX Document Reference: AIR 2817–FMS–P1, dated October 15, 2012, or Walter Fletcher Document Reference: AIR 2672–FMS–P1, dated October 15, 2012, as applicable, into the AFM.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

(i) Related Information

Refer to MCAI CAA (Civil Aviation Authority) AD DCA/FU24/182, dated October 25, 2012; CAA Approved Flight Manual Supplement PT6 Fletcher-EX for Aircraft Modified for Parachuting Operations, Document Reference: AIR 2817–FMS–P1, dated October 15, 2012; and CAA Approved Flight Manual Supplement Walter Fletcher for Aircraft Modified for Parachuting Operations, Document Reference: AIR 2672–FMS–P1, dated October 15, 2012, for related information.

(j) Material Incorporated by Reference

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

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

(i) CAA Approved Flight Manual Supplement PT6 Fletcher-EX for Aircraft Modified for Parachuting Operations, Document Reference: AIR 2817–FMS–P1, dated October 15, 2012.

(ii) CAA Approved Flight Manual Supplement Walter Fletcher for Aircraft Modified for Parachuting Operations, Document Reference: AIR 2672–FMS–P1, dated October 15, 2012.

(3) For Pacific Aerospace Limited service information identified in this AD, contact Pacific Aerospace Limited, Hamilton Airport, Private Bag, 3027 Hamilton, New Zealand; telephone: +64 7 843 6144; fax: +64 7 843 6134; email: *enquiries@aerospace.co.nz;* Internet: *http://www.aerospace.co.nz/.*

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued in Kansas City, Missouri, on January 29, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02364 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0725; Directorate Identifier 2011–NM–207–AD; Amendment 39–17343; AD 2013–03–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, & CL–604 Variants) airplanes. This AD was prompted by reports of cracking found on the upper and lower Web of the engine support beam. This AD requires revising the maintenance program. We are issuing this AD to detect and correct fatigue cracking of the engine support beam, which could result in failure of the engine support beam and affect the structural integrity of the airplane.

DATES: This AD becomes effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 19, 2013.

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

FOR FURTHER INFORMATION CONTACT: Stephen Kowalski, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7327; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 31, 2012 (77 FR 45288). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> Cracks on the upper and lower Web of the Engine Support Beam (ESB) have been discovered on two (2) Challenger aeroplanes in service. Failure of the ESB could adversely affect the structural integrity of the aeroplane.
>
> A Temporary Revision (TR) has been made to the Time Limits/Maintenance Checks (TLMC) manual to introduce a new Airworthiness Limitations (AWL) task to ensure that fatigue cracking of the ESB is detected and corrected.
>
> This [Canadian] directive mandates the incorporation of the new AWL task.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 45288, July 31, 2012) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR

45288, July 31, 2012) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 45288, July 31, 2012).

Costs of Compliance

We estimate that this AD will affect 111 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $9,435, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 45288, July 31, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–08 Bombardier, Inc.: Amendment 39–17343. Docket No. FAA–2012–0725; Directorate Identifier 2011–NM–207–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 19, 2013.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to the airplane models specified in paragraphs (c)(1)(i), (c)(1)(ii), (c)(1)(iii), and (c)(1)(iv) of this AD, certificated in any category.

(i) Bombardier, Inc. Model CL–600–1A11 (CL–600), serial numbers 1004 through 1085 inclusive.

(ii) Bombardier, Inc. Model CL–600–2A12 (CL–601), serial numbers 3001 through 3066 inclusive.

(iii) Bombardier, Inc. Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants), serial numbers 5001 through 5194 inclusive.

(iv) Bombardier, Inc. Model CL–600–2B16 (CL–604 Variants), serial numbers 5301 through 5665 inclusive, and 5701 and subsequent.

(2) This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in FAA Advisory Circular (AC) 25.1529–1A, dated November 20, 2007 (*http://rgl/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/E4111B5537E0B345862573B0006FA23B?OpenDocument*).

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic Inspections.

(e) Reason

This AD was prompted by reports of cracking found on the upper and lower Web of the engine support beam. We are issuing this AD to detect and correct fatigue cracking of the engine support beam, which could result in failure of the engine support beam and affect the structural integrity of the airplane.

(f) Compliance

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

(g) Time Limits/Maintenance Checks (TLMC) Manual Revision

Within 60 days after the effective date of this AD, revise the maintenance program to incorporate the applicable information specified in paragraphs (g)(1) through (g)(4) of this AD.

Note 1 to paragraph (g) of this AD: The maintenance program revision required by paragraph (g) of this AD may be done by inserting a copy of Bombardier Temporary Revision (TR) 5–151, TR 5–250, TR 5–261, and TR 5–2–47 or TR 5–2–9, all dated May 31, 2011, into the applicable TLMC manual. When the applicable TR has been included in general revisions of the TLMC manual, the general revisions may be inserted in the TLMC manual, provided the relevant information in the general revision is identical to that in the applicable TR specified in paragraphs (g)(1) through (g)(4) of this AD.

(1) For Model CL–600–1A11 (CL–600) airplanes: Task 53–10–00–198, Torque Box, specified in Canadair Challenger TR 5–151, dated May 31, 2011, to the Canadair Challenger TLMC Manual, PSP 605.

(2) For Model CL–600–2A12 (CL–601 Variant) airplanes: Task 53–10–00–198, Engine Support Beam, specified in Canadair Challenger TR 5–250, dated May 31, 2011, to the Canadair Challenger TLMC Manual, PSP 601–5.

(3) For Model CL–600–2B16 (CL–601–3A and CL–601–3B Variant) airplanes: Task 53–

10–00–198, Engine Support Beam, specified in Canadair Challenger TR 5–261, dated May 31, 2011, to the Canadair Challenger TLMC Manual, PSP 601A–5.

(4) For Model CL–600–2B16 (CL–604 Variant) airplanes: Task 53–30–00–155, Detailed Inspection of the Engine Support Beam, specified in Bombardier Challenger 604 TR 5–2–47, dated May 31, 2011, to the Bombardier Challenger 604 TLMC Manual; or Task 53–30–00–155, Detailed Inspection of the Engine Support Beam, specified in Bombardier Challenger 605 TR 5–2–9, dated May 31, 2011, to the Bombardier Challenger 605 TLMC Manual.

(h) Initial Compliance Times for Inspections

The initial compliance time for the inspections specified in the temporary revisions specified in paragraphs (g)(1) through (g)(4) of this AD is before the accumulation of 7,800 total flight cycles, or within 12 months after the effective date of this AD, whichever occurs later.

(i) No Alternative Actions or Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–33, dated August 16, 2011, and the temporary revisions specified in paragraphs (g)(1) through (g)(4) of this AD, for related information.

(l) Material Incorporated by Reference

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

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

(i) Canadair Challenger Temporary Revision 5–151, dated May 31, 2011, to the Canadair Challenger Time Limits/Maintenance Checks Manual, PSP 605.

(ii) Canadair Challenger Temporary Revision 5–250, dated May 31, 2011, to the Canadair Challenger Time Limits/Maintenance Checks Manual, PSP 601–5.

(iii) Canadair Challenger Temporary Revision 5–261, dated May 31, 2011, to the Canadair Challenger Time Limits/Maintenance Checks Manual, PSP 601A–5.

(iv) Bombardier Challenger 604 Temporary Revision 5–2–47, dated May 31, 2011, to the Bombardier Challenger 604 Time Limits/Maintenance Checks Manual.

(v) Bombardier Challenger 605 Temporary Revision 5–2–9, dated May 31, 2011, to the Bombardier Challenger 605 Time Limits/Maintenance Checks Manual.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on January 30, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02724 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1134; Directorate Identifier 2012–CE–034–AD; Amendment 39–17345; AD 2013–03–10]

RIN 2120–AA64

Airworthiness Directives; Lindstrand Hot Air Balloons Ltd Appliances

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Lindstrand Hot Air Balloons Ltd female ACME threaded hose connectors, part numbers HS6139 and HS6144, installed on balloons. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient tightness of the threaded hose connector in the assembly area that could result in fuel leakage. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 19, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Lindstrand Hot Air Balloons Ltd, Maesbury Road, Oswestry, Shropshire SY10 8ZZ, The United Kingdom; telephone: +44 (0) 1691–671717; fax: +44 (0) 1691–671122; email: *simon@lindstrand.co.uk;* Internet: *http://www.lindstrand.co.uk/.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer,

FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 23, 2012 (77 FR 64763). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Three incidents were reported where the female ACME threaded connectors (Rego type) was leaking when connected to the gas cylinder with the cylinder valve turned on.

The results of the technical investigations revealed the possibility that other similar connectors produced between 01 January 2011 and 01 September 2011 might not have been assembled with sufficient tightness. A list of potentially affected connectors has been drawn up Table 1 of this AD. A list of burners and manifolds on which it is already known that an affected connector has been installed is provided in Table 2 of this AD.

This condition, if not detected and corrected, could result, in case of an ignition source, in a fire hazard that could damage the balloon and its envelope, ultimately leading to a forced emergency landing, during which balloon occupants and persons on the ground could be injured.

To address this potential unsafe condition, Lindstrand Hot Air Balloons Ltd. (who manufactured the hose assemblies) issued Service Bulletin (SB) N° 12, which, for the affected parts, requires accomplishment of an inspection of the female ACME thread hose connectors.

For the reasons described above, EASA issued AD 2012–0142, to require an inspection of the female ACME thread hose connectors for leakage, and, depending on findings, to re-torque the connectors using correct values.

Since that AD was issued, it has been determined that the pilot-owner of the balloon can accomplish the inspection of the affected parts to identify the leak. In addition, the risk assessment has been reconsidered, which has led to the conclusion that the compliance time for the inspection can be extended to 60 days after the effective date of the date at original issue. Similarly, as most of the parts have now been inspected and, depending on findings, corrected, it was possible to delete paragraph (3) from the AD, dealing with spare parts.

Although the European Aviation Safety Agency (EASA) MCAI allows the pilot-owner to do the inspection and correction required in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, the U.S. regulatory system requires all actions of this AD be done by a certified mechanic.

Comments

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

Request To Change Applicability or Withdraw NPRM

Phil A. Thompson, President of ARBC, Inc. dba/Lindstrand Balloons USA, requests we reduce the applicability of the AD or withdraw the NPRM. The commenter states that the unsafe condition applies to only the specific female ACME threaded hose connectors, part numbers HS6139 and HS6144, produced during a certain time period.

The FAA disagrees with reducing the applicability or withdrawing the NPRM. While we agree that the unsafe condition exists only on the specific female ACME threaded hose connectors, part numbers HS6139 and HS6144; we cannot determine which balloons have the defective parts installed. We also cannot determine the exact serial numbers produced during the certain time period referenced by the commenter to limit the applicability to parts produced during that time period. Neither the FAA nor EASA has received any documentation to prove that the defective parts are limited to the 23 parts referenced by the commenter.

We have not changed the final rule AD action based on this comment.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 64763, October 23, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 64763, October 23, 2012).

Costs of Compliance

We estimate that this AD will affect 2,170 products of U.S. registry. We also estimate that it would take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $92,225, or $42.50 per product.

In addition, we estimate that any necessary follow-on actions would take about .5 work-hour. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–10 Lindstrand Hot Air Balloons Ltd: Amendment 39–17345; Docket No. FAA–2012–1134; Directorate Identifier 2012–CE–034–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 19, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all hot air balloons, certificated in any category, equipped with Lindstrand Hot Air Balloons Ltd female ACME threaded hose connectors, part numbers (P/Ns) HS6139 and HS6144, all serial numbers.

(d) Subject

Air Transport Association of America (ATA) Code 14: Hardware.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as insufficient tightness of the threaded hose connector in the assembly area that could result in fuel leakage. We are issuing this AD to detect and correct insufficient tightness of the threaded hose connector in the assembly area. This condition, if not corrected, could result in fuel leakage and lead to an inflight fire.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 60 days after March 19, 2013 (the effective date of this AD), inspect the female ACME threaded hose connectors, (P/Ns) HS6139 and HS6144, for leaking following the Accomplishment Instructions of Lindstrand Hot Air Balloons Ltd Service Bulletin No. 12, Issue 2, dated May 10, 2012.

(2) If fuel leakage is detected in the inspection required in paragraph (f)(1) of this AD, before further flight, tighten the threaded hose connector to the correct torque following Lindstrand Hot Air Balloons Ltd Service Bulletin No. 12, Issue 2, dated May 10, 2012.

(3) If, after March 19, 2013 (the effective date of this AD), you install on any balloon an ACME threaded hose connector, (P/Ns) HS6139 or HS6144, manufactured by Lindstrand Hot Air Balloons Ltd and supplied as a spare part between January 1, 2011, and September 1, 2011, before further flight, you must comply with the actions of this AD.

(4) Although the European Aviation Safety Agency (EASA) MCAI allows the pilot-owner to do the inspection and correction required in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, the U.S. regulatory system requires all actions of this AD be done by a certified mechanic.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency AD 12–053, dated May 25, 2012; and Lindstrand Hot Air Balloons Ltd Service Bulletin No. 12, Issue 2, dated May 10, 2012, for related information.

(i) Material Incorporated by Reference

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

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

(i) Lindstrand Hot Air Balloons Ltd Service Bulletin No. 12, Issue 2, dated May 10, 2012.

(ii) Reserved.

(3) For Lindstrand Hot Air Balloons Ltd service information identified in this AD, contact Lindstrand Hot Air Balloons Ltd, Maesbury Road, Oswestry, Shropshire SY10 8ZZ, The United Kingdom; telephone: +44 (0) 1691–671717; fax: +44 (0) 1691–671122; email: *simon@lindstrand.co.uk; Internet: http://www.lindstrand.co.uk/.*

(4) You may review this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued in Kansas City, Missouri, on February 1, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02720 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1070; Directorate Identifier 2012–NM–099–AD; Amendment 39–17340; AD 2013–03–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Airbus

Model A310 series airplanes. This AD was prompted by fuel system reviews conducted by the European Aviation Safety Agency (EASA). This AD requires modifying the electrical control circuits of the inner, center, and trim tank pumps, as applicable. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 19, 2013.

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 12, 2012 (77 FR 62182). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

[T]he FAA published Special Federal Aviation Regulation (SFAR) 88, and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.

In the framework of these requirements, EASA [European Aviation Safety Agency] have determined that the electrical power supply circuits of certain fuel pumps, installed on A300/A300–600, A310 and A300–600ST aeroplane, for which the canisters become uncovered during normal operation, could, under certain conditions, create an ignition source in the tank vapour space.

This condition, if not corrected, could result in a fuel tank explosion and consequent loss of the aeroplane.

To address this potential unsafe condition, Airbus developed a modification which includes the installation of Ground Fault Interrupters (GFI) into the inner, centre, and trim tank fuel pump control circuits, providing additional system protection by electrically isolating the pump in case of a ground fault condition downstream of the GFI.

For the reasons described above, this [EASA] AD requires modification of the affected fuel pumps control circuit by installing GFI.

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

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

No Requests or Objections

FedEx stated that the requirements and number of work-hours will fit into its maintenance schedule, and the manufacturer provided an estimate of 90 to 99 days' lead time on parts. FedEx also stated that the proposed actions will not require any special procedures or equipment. We infer that FedEx does not object to any requirements of this AD.

Request To Extend Compliance Time

United Parcel Service (UPS) noted that in Airbus Mandatory Service Bulletin A300–28–3104, dated February 28, 2012, Airbus provided a parts lead time estimate of 120 days. UPS stated that the 120 days would reduce the time left to accomplish the work described in that service bulletin. UPS requested that parts lead times be taken into consideration when the FAA develops compliance times for ADs. We infer that UPS requested the compliance time be extended to accommodate the 120-day parts lead time.

We disagree with the request to extend the compliance time. We considered the parts availability and lead time when developing the compliance time. We have not changed this AD in this regard. However, under the provisions of paragraph (h)(1) of this AD, we may approve requests for an alternative method of compliance (AMOC) if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 62182, October 12, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 62182, October 12, 2012).

Costs of Compliance

We estimate that this AD will affect 162 products of U.S. registry. We also estimate that it will take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $17,680 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,946,780, or $18,190 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 62182, October 12, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–05 Airbus: Amendment 39–17340. Docket No. FAA–2012–1070; Directorate Identifier 2012–NM–099–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 19, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) All Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes.

(2) All Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28; Fuel.

(e) Reason

This AD was prompted by fuel system reviews conducted by the European Aviation Safety Agency (EASA). We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Actions

Within 48 months after the effective date of this AD, accomplish the actions specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For Model A310 series airplanes: Modify the electrical control circuits of the inner, center, and trim tank pumps, as applicable, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–28–2170, dated February 28, 2012.

(2) For Model A300–600 airplanes: Modify the electrical control circuits of the inner, center, and trim tank pumps, as applicable, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–28–6104, dated February 28, 2012.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(i) Related Information

Refer to MCAI EASA Airworthiness Directive 2012–0091, dated May 25, 2012, and the service information identified in paragraphs (i)(1) and (i)(2) of this AD, for related information.

(1) Airbus Mandatory Service Bulletin A310–28–2170, dated February 28, 2012.

(2) Airbus Mandatory Service Bulletin A300–28–6104, dated February 28, 2012.

(j) Material Incorporated by Reference

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

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

(i) Airbus Mandatory Service Bulletin A310–28–2170, dated February 28, 2012.

(ii) Airbus Mandatory Service Bulletin A300–28–6104, dated February 28, 2012.

(3) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*.

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

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

Issued in Renton, Washington, on January 28, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02723 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0602; Directorate Identifier 2009–SW–061–AD; Amendment 39–17338; AD 2013–03–04]

RIN 2120–AA64

Airworthiness Directives; Schweizer Aircraft Corporation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the

Schweizer Aircraft Corporation (Schweizer) Model 269D and Model 269D Configuration A helicopters. The type certificate for these models is currently held by Sikorsky Aircraft Corporation (Sikorsky). This AD requires inspecting the aft fuselage assembly in the area around the attachment point of the horizontal stabilizer, including the paint, for a crack. This AD also requires inspecting the tailboom interior support structure, and if necessary, installing an inspection panel kit in the aft fuselage assembly, and installing doublers in the stabilizer support brackets. This AD is prompted by reports of loose horizontal stabilizers and cracks in the stabilizer support structure for the extruded tailboom. The actions are intended to prevent separation of the horizontal stabilizer from the helicopter and subsequent loss of control of the helicopter.

DATES: This AD is effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of March 19, 2013.

ADDRESSES: For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT 06614; telephone (800) 562–4409; email *tsslibrary@sikorsky.com*; or at *http://www.sikorsky.com*. You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Stephen Kowalski, Aviation Safety Engineer, New York Aircraft Certification Office, Engine & Propeller Directorate, 1600 Stewart Ave., suite 410, Westbury, NY 11590; telephone (516) 228–7327; email *stephen.kowalski@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On June 11, 2012, at 77 FR 34281, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Schweizer Model 269D and Model 269D Configuration A helicopters, serial numbers 0001 to 0062A, with aft fuselage assembly part number (P/N) 269D3300–1 installed. That NPRM proposed to require inspecting the aft fuselage assembly in the area around the attachment point of the horizontal stabilizer, including the paint, for a crack. That AD also proposed inspecting the tailboom interior support structure, and if necessary, installing an inspection panel kit in the aft fuselage assembly, and installing doublers in the stabilizer support brackets. The proposed requirements were prompted by reports of loose horizontal stabilizers and cracks in the support structure of the extruded tailboom. The proposed requirements were intended to prevent separation of the horizontal stabilizer from the helicopter and subsequent loss of control of the helicopter.

Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM (77 FR 34281, June 11, 2012).

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information

We have reviewed Schweizer Service Bulletin DB–018.3, dated December 13, 2007 (SB), which specifies inspecting for cracks in the fuselage assemblies and installing an inspection panel kit and stabilizer mount doublers. The Type Certificate for these helicopters transferred from Schweizer to Sikorsky on September 26, 2011.

Differences Between This AD and the Service Information

The Schweizer SB requires contacting the manufacturer if certain damage is found for repair instructions. This AD does not.

Costs of Compliance

We estimate that this AD affects 18 helicopters, and that the average labor rate is $85 per work hour. Based on these assessments, we estimate the following costs:

- Daily visual inspection. This takes about 10 minutes for a labor cost of $9. Assuming 365 daily inspections per year, the annual labor cost per helicopter will be about $3,285. The annual cost for the U.S. fleet will total $59,130.
- Internal inspection. This takes two work-hours for a labor cost of $170. Assuming 10 inspections a year, the annual labor cost per helicopter is $1,700.
- Install inspection panel. This takes 16 work-hours for a labor cost of $1,360. Parts cost $150 for a cost per helicopter of $1,510.
- Repair damaged longerons, tailboom tube collars, or forward stabilizer bulkhead as needed. This takes 24 work-hours for a labor cost of $2,040. Parts cost $38,000 for a cost per helicopter of $40,040.
- Repair a crack in the aft fuselage assembly clip, aft bulkhead, or adjacent skins. This takes 24 work-hours for a labor cost of $2,040. Parts cost $120 for a cost per helicopter of $2,160.
- Repair interference between the rivet heads and skin. This takes 10 work-hours for a labor cost of $850. No parts are needed.

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on

the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–04 SCHWEIZER AIRCRAFT CORPORATION HELICOPTERS: Amendment 39–17338; Docket No. FAA–2012–0602; Directorate Identifier 2009–SW–061–AD.

(a) Applicability

This AD applies to Schweizer Aircraft Corporation (Schweizer) Model 269D and Model 269D Configuration A helicopters, serial numbers 0001 to 0062A, with aft fuselage assembly part number (P/N) 269D3300–1 installed, certificated in any category.

Note to Applicability: The type certificate for these models is currently held by Sikorsky Aircraft Corporation.

(b) Unsafe Condition

This AD defines the unsafe condition as loose horizontal stabilizers and cracks in the stabilizer support structure for the extruded tailboom, which could result in separation of the horizontal stabilizer from the helicopter and subsequent loss of helicopter control.

(c) Effective Date

This AD becomes effective March 19, 2013.

(d) Compliance

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

(e) Required Actions

(1) Before the first flight of each day, visually inspect the aft fuselage assembly in the area around the attachment point of the horizontal stabilizer, including the paint, for a crack. If there is a crack, remove the horizontal stabilizer and perform an interior inspection in accordance with Part II: Internal Inspection, paragraphs b. and c., of Schweizer Service Bulletin DB–018.3, dated December 13, 2007 (SB).

(i) If there is a crack in the aft fuselage assembly clip, in the aft bulkhead, or in adjacent skins, repair the crack. Thereafter, at intervals not to exceed 200 hours time-in-service (TIS), remove the horizontal stabilizer and repeat the interior inspection in accordance with Part II: Internal Inspection, paragraphs b. and c., of the SB, or replace the aft fuselage assembly, P/N 269D3300–1,with an airworthy aft fuselage assembly, P/N 269D3300–35.

(ii) If there is a crack in a longeron, tailboom tube collar or a forward stabilizer bulkhead, replace the aft fuselage assembly with an airworthy aft fuselage assembly, P/N 269D3300–35.

(2) Within 100 hours TIS or three months, whichever occurs first:

(i) Remove the horizontal stabilizer, clean the horizontal stabilizer mounting brackets, and inspect the mounting brackets for wear greater than 0.002-inch deep. If the bracket wear exceeds 0.002-inch deep, replace the mounting bracket with an airworthy mounting bracket.

(ii) Modify the aft fuselage assembly by installing Inspection Panel kit P/N SA–269DK–035.

(iii) Install doublers on the forward side of each mounting bracket in accordance with Part III–2, paragraphs e. through i., of the SB.

(iv) Inspect the horizontal stabilizer forward and aft spars for wear in the mounting attachment areas. If the wear exceeds 0.002-inch deep, replace the spar with an airworthy spar.

(v) Inspect for rivet interference between the rivet heads and skin on the top surface of the horizontal stabilizer and the tailboom stiffening Web near Station 232.4. If interference exists, replace with airworthy rivets.

(vi) Install an airworthy horizontal stabilizer using 4 bolts, P/N NAS1304–4, and 4 washers, P/N AN960KD416 or NAS1149D0463K.

(3) Removing aft fuselage assembly, P/N 269D3300–1, and replacing it with aft fuselage assembly, P/N 269D3300–35, is terminating action for the requirements of this AD.

(f) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 provided that before operating the helicopter to a location to perform the actions in paragraphs (e)(1) through (e)(3) of this AD, a daily, pre-flight visual inspection is accomplished in accordance with paragraph (e)(1) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, NY ACO, FAA, may approve AMOCs for this AD. Send your proposal to: Stephen Kowalski, Aviation Safety Engineer, New York Aircraft Certification Office, Engine & Propeller Directorate, 1600 Stewart Ave., suite 410, Westbury, NY 11590; telephone (516) 228–7327; email *stephen.kowalski@faa.gov.*

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

(h) Subject

Joint Aircraft Service Component (JASC) Code: 5302, Rotorcraft tailboom.

(i) Material Incorporated by Reference

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

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

(i) Schweizer Service Bulletin DB–018.3, dated December 13, 2007.

(ii) Reserved.

(3) For Schweizer Aircraft Corporation service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT 06614; telephone (800) 562–4409; email *tsslibrary@sikorsky.com;* or at *http://www.sikorsky.com.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on January 29, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–02583 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1250; Directorate Identifier 2012–CE–043–AD; Amendment 39–17344; AD 2013–03–09]

RIN 2120–AA64

Airworthiness Directives; DG Flugzeugbau GmbH Gliders

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for DG Flugzeugbau GmbH Model DG–1000T gliders equipped with Solo Kleinmotoren Model 2350 C engines. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a material defect of the propeller shaft, most likely caused by a manufacturing error. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 19, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Solo Kleinmotoren GmbH, Postfach 60 01 52, D 71050 Sindelfingen, Germany; telephone: +49 07031–301–0; fax: +49 07031–301–136; email: *aircraft@solo-germany.com;* Internet: *http://aircraft.solo-online.com/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 30, 2012 (77 FR 71359). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Two reports have been received of a broken P/N 20 31 211 propeller shaft on a Solo 2350 C engine. The results of the investigation showed that the failures were due to a material defect, most likely caused by a manufacturing error.
>
> This condition, if not detected and corrected, could lead to failure of the shaft and detachment of the propeller from the aeroplane, which, depending on the flight conditions, could result in reduced control of the aeroplane, or injury to persons on the ground.
>
> For the reasons described above, this AD requires a one-time inspection (magnetic particle or dye penetrant) of the affected propeller shafts to detect cracks and, depending on findings, replacement of the propeller pulley assembly (module) with a serviceable module.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 71359, November 30, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 71359, November 30, 2012).

Costs of Compliance

We estimate that this AD will affect 2 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $170, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing $197, for a cost of $282 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The

street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–09 DG Flugzeugbau GmbH: Amendment 39–17344; Docket No. FAA–2012–1250; Directorate Identifier 2012–CE–043–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 19, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DG Flugzeugbau GmbH Model DG–1000T gliders equipped with Solo Kleinmotoren Model 2350 C engines, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 72: Engine.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a material defect within the propeller shaft, most likely caused by a manufacturing error. We are issuing this AD to prevent failure of the propeller shaft and detachment of the propeller, which could result in reduced control of the aircraft or injury to persons on the ground.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within 25 hours time-in-service (TIS) after March 19, 2013 (the effective date of this AD) or 6 months after March 19, 2013 (the effective date of this AD), whichever occurs first, remove the propeller pulley assembly (module) from the engine and inspect the transition region of the part number (P/N) 20 31 211 shaft following the Actions section of Solo Kleinmotoren GmbH Service Bulletin Nr. 4603–13, Issue 1, dated September 24, 2012.

(2) If, during the inspection required by paragraph (f)(1) of this AD, cracks are detected in the P/N 20 31 211 shaft, before further flight, do the following:

(i) Replace the P/N 20 31 211 shaft with an airworthy P/N 20 31 211 shaft; or

(ii) Replace the propeller pulley assembly (module) with an airworthy propeller pulley assembly (module).

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2012–0197, dated September 25, 2012; and Solo Kleinmotoren GmbH Service Bulletin Nr. 4603–13, Issue 1, dated September 24, 2012, for related information.

(i) Material Incorporated by Reference

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

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

(i) Solo Kleinmotoren GmbH Service Bulletin Nr. 4603–13, Issue 1, dated September 24, 2012.

(ii) Reserved.

(3) For Solo Kleinmotoren GmbH service information identified in this AD, contact Solo Kleinmotoren GmbH, Postfach 60 01 52, D 71050 Sindelfingen, Germany; telephone: +49 07031–301–0; fax: +49 07031–301–136; email: *aircraft@solo-germany.com*; Internet: *http://aircraft.solo-online.com/.*

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued in Kansas City, Missouri, on February 1, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02718 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0098; Directorate Identifier 2011–SW–039–AD; Amendment 39–17339; AD 2013–03–16]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the Bell Helicopter Textron (Bell) Model 212 helicopters and adopting requirements for Bell Model 204B, 205A, 205A–1, 205B and 210 helicopters with certain part-numbered main rotor hub inboard strap fittings (fittings). This AD requires magnetic particle inspecting (MPI) the fittings for

a crack, and if a crack exists, replacing the fittings with airworthy fittings. This AD is prompted by reports of additional cracked fittings and the determination that additional part-numbered fittings may not have been manufactured in accordance with approved manufacturing processes and controls. These actions are intended to identify a crack in the fitting, which may lead to the fitting's failure, loss of a main rotor blade, and subsequent loss of helicopter control.

DATES: This AD becomes effective February 27, 2013.

We must receive comments on this AD by April 15, 2013.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files/.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Michael Kohner, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas, 76137, phone: (817) 222–5170; fax: (817) 222–5783; email: *mike.kohner@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

On March 29, 2011, the FAA issued AD 2011–08–01, Amendment 39–16651 (76 FR 18865, April 6, 2011), which superseded previously existing emergency AD 2010–25–51, for Bell Model 212 helicopters with a fitting, part number (P/N) 212–010–103–007 and with a certain serial number (S/N). AD 2011–08–01 retained the requirements of AD 2010–25–51 to replace certain serial-numbered fittings and perform an MPI for a crack on other serial-numbered fittings, and expanded the applicability to require performing an MPI on additional serial-numbered fittings. The AD based the compliance time for performing an MPI on the number of hours time-in-service (TIS) of the fitting. That AD was prompted by reports of cracks in fittings. Subsequently, the cracking was determined to have been caused by the manufacturer's failure to follow approved manufacturing processes and controls during the quenching operation from the heat treating of the fittings.

Since AD 2011–08–01 was issued, two additional fittings were found with a crack. Based on these additional reported cracks, we have determined that a crack may occur in a fitting regardless of the hours TIS. In addition, fitting P/Ns 204–012–102–001, –005, –009, 212–010–103–005, and –101, which are used on other model helicopters, are susceptible to the same type of cracking because they are of similar design and manufacture to fitting P/N 212–010–103–007, which was the subject of AD 2011–08–01. Failure of a fitting in flight may result in the loss of a main rotor blade and subsequent loss of helicopter control. Therefore, this AD reduces the compliance time for performing an MPI of some serial-numbered fittings by requiring an MPI for all applicable serial-numbered fittings within 25 hours TIS or 15 days, whichever occurs first. This AD does not require you to report a cracked fitting to the Rotorcraft Certification Office.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information

We have reviewed Bell Alert Service Bulletin (ASB) No. 212–10–141, Revision A, dated November 18, 2010, for the Model 212 helicopter, which specifies the immediate removal from service of fittings with certain S/Ns.

We have also reviewed ASB No. 204–11–66 for the Model 204B helicopters; ASB No. 205–11–107 for the Model 205A and 205A–1 helicopters; ASB No. 205B–11–58 for the Model 205B helicopters; ASB No. 210–11–08 for the Model 210 helicopters; and ASB No. 212–10–142, Revision B for the Model 212 helicopters; all dated May 31, 2011. These ASBs specify:

- For certain serial-numbered fittings with less than 400 flight hours, performing an initial MPI within 100 flight hours but before the fitting reaches 425 flight hours or before November 26, 2011, whichever occurs first.
- For certain serial-numbered fittings with more than 400 hours, performing an initial MPI within 25 flight hours or before November 26, 2011, whichever occurs first.
- Certain serial-numbered fittings that have already had an MPI during main rotor hub assembly maintenance or during an overhaul do not need an additional MPI. Historical records must be annotated to show compliance during records inspection.
- If defects are found, returning the removed strap fittings to Bell.
- If no defects are found, re-identifying the fitting by adding an ''FM'' at the end of the part number and making a record entry.

• Performing a recurring MPI on all fittings, regardless of S/N and prefix, at 1,200 hours or 24 months for all models, except the Model 210, and at the tension-torsion (TT) strap replacement for the Model 210 helicopters.

AD Requirements

This AD supersedes AD 2011–08–01 (76 FR 18865, April 6, 2011) and requires for any Model 204B, 205A, 205A–1, 205B, 210 and 212 helicopter with certain fittings the following actions:

• Within 25 hours TIS or 15 days, whichever occurs first, performing an MPI of each fitting for a crack.

• If a fitting is cracked, before further flight, replacing it with an airworthy fitting.

• If a fitting is not cracked, re-identifying the fitting and its component history card or equivalent record by adding ''FM'' at the end of the P/N.

If an MPI has previously been performed on a fitting and the component history card or equivalent record of the fitting has been re-identified with ''FM'' at the end of the P/N, the requirements of this AD have been met.

Differences Between This AD and the Service Information

This AD differs from the ASBs because we require an MPI within 25 hours time-in-service or 15 days, whichever occurs first, of any fitting with an affected P/N and S/N. Bell requires different compliance times depending on the hours TIS of the fitting. We do not require the immediate removal of fittings, P/N 212–010–103–007, with certain S/Ns because the MPI provides the necessary level of safety. We do not require returning parts to Bell.

Costs of Compliance

We estimate that this AD affects 152 helicopters of U.S. registry and that labor costs average $85 per work-hour. Based on these estimates, we expect the following costs to comply with this AD:

• We estimate that 304 fittings (2 per helicopter) will need to be MPI inspected for a crack and that this task will require 40 work-hours. No parts are needed for the inspection, bringing the total cost per helicopter to $3,400; $516,800 for all U.S. operators.

• If a fitting is cracked, replacement parts will cost $2,367 per fitting. Labor costs will not be an additional expense as they can be absorbed as part of the inspection.

According to Bell's service information, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Bell. Accordingly, we have included all costs in our cost estimate.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements, would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule because the required corrective actions must be accomplished within 15 days, a very short time period based on the average flight-hour utilization rate of these helicopters.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–16651 (76 FR 18865, April 6, 2011) and adding the following new airworthiness directive (AD):

2013–03–16 Bell Helicopter Textron (Bell): Amendment 39–17339; Docket No. FAA–2013–0098; Directorate Identifier 2011–SW–39–AD.

(a) Applicability

This AD applies to Model 204B, 205A, 205A–1, 205B, 210 and 212 helicopters, certificated in any category, with a main rotor hub inboard strap fitting (fitting) with a part number (P/N) and serial number (S/N) listed in Table 1 to paragraph (a) of this AD.

TABLE 1 TO PARAGRAPH (A)

Helicopter models	Fitting P/Ns	Fitting S/Ns
204B	204–012–102–001	All.

TABLE 1 TO PARAGRAPH (A)—Continued

Helicopter models	Fitting P/Ns	Fitting S/Ns
204B, 205A and 205A–1	204–012–102–005	All.
204B, 205A and 205A–1	204–012–102–009	All, except S/Ns 7500 or larger with a prefix of "A".
212	212–010–103–005	All.
212	212–010–103–007	All, except S/Ns 140 or larger with a prefix of "SH" and except S/Ns 11021 or larger with a prefix of "A".
205A–1, 205B and 210	212–010–103–101	All, except S/Ns 486 or larger with a prefix of "SH," and except S/Ns 10997 or larger with a prefix of "A".

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the fitting and the determination that additional part-numbered fittings may not have been manufactured in accordance with approved manufacturing processes and controls. This condition could result in failure of a fitting, loss of a main rotor blade, and loss of helicopter control.

(c) Affected ADs

This AD supersedes AD 2011–08–01, Docket No. FAA–2011–0323, Amendment 39–16651 (76 FR 18865, April 6, 2011), Directorate Identifier 2011–SW–005–AD.

(d) Effective Date

This AD becomes effective February 27, 2013.

(e) Compliance

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

(f) Required Actions

(1) Within 25 hours time-in-service or 15 days, whichever occurs first, perform a magnetic particle inspection (MPI) of each fitting for a crack. If an MPI was already performed on a fitting resulting in re-identifying the fitting with "FM" at the end of the P/N or at the end of the P/N on the fitting's component history card or equivalent record, then the requirements of this AD have been met.

(2) If a fitting is cracked, before further flight, replace it with an airworthy fitting.

(3) If a fitting is not cracked, before further flight, re-identify the fitting by adding "FM" at the end of the P/N using a vibrating stylus. The depth of the "FM" must not exceed 0.005 inches or extend within 0.10 inch of the part's edge. Also, add "FM" at the end of the P/N on the fitting's component history card or equivalent record.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Rotorcraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Michael Kohner, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas, 76137, phone: (817) 222–5170; fax: (817) 222–5783; email: *mike.kohner@faa.gov.*

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

(h) Additional Information

Bell Alert Service Bulletin (ASB) No. 212–10–141, Revision A, dated November 18, 2010; and ASBs No. 204–11–66, No. 205–11–107, No. 205B–11–58, No. 210–11–08; and No. 212–10–142 Revision B, all dated May 31, 2011, which are not incorporated by reference, contain additional information about the subject of this AD. For this service information, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files/*. You may review this service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6220, Main Rotor Head.

Issued in Fort Worth, Texas, on January 28, 2013.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–02899 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1273; Directorate Identifier 2012–CE–045–AD; Amendment 39–17350; AD 2013–03–15]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company Models 172R and 172S airplanes. This AD was prompted by reports of chafing of a new configuration of the fuel return line assembly, which was caused by the fuel return line assembly rubbing against the right steering tube assembly during rudder pedal actuation. This AD requires you to install the forward and aft fuel return line support clamps and brackets; inspect for a minimum clearance between the fuel return line assembly and the steering tube assembly and clearance between the fuel return line assembly and the airplane structure; and, if any damage is found, replace the fuel return line assembly. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 19, 2013.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Company, Customer service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com;* Internet: *http://www.cessnasupport.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Jeff Janusz, Aerospace Engineer, Wichita

Aircraft Certification Office, FAA, 1801 S. Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4148; fax: (316) 946–4107; email: *jeff.janusz@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on December 5, 2012 (77 FR 72250). That NPRM proposed to require you to install the forward and aft fuel return line support clamps and brackets; inspect for a minimum clearance between the fuel return line assembly and the steering tube assembly and clearance between the fuel return line assembly and the airplane structure; and, if any damage is found, replace the fuel return line assembly.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 72250, December 5, 2012) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 72250, December 5, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 72250, December 5, 2012).

Costs of Compliance

We estimate that this AD affects 80 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation of brackets and clamps and inspection of the fuel return line assembly for chafing and clearance.	2 work-hours × $85 per hour = $170	$78	$248	$19,840

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the fuel return line assembly and adjustment of the clearance between the fuel return line assembly and the steering tube assembly and the airplane structure.	2 work-hours × $85 per hour = $170	$53	$223

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–15 Cessna Aircraft Company: Amendment 39–17350; Docket No.

FAA–2012–1273; Directorate Identifier 2012–CE–045–AD.

(a) Effective Date

This AD is effective March 19, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Cessna Aircraft Company (Cessna) airplanes, certificated in any category:

(1) Model 172R, serial numbers (S/N) 17281573 through 17281616; and

(2) Model 172S, S/N l72S11074 through 172S11193.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2820, Aircraft Fuel Distribution System.

(e) Unsafe Condition

This AD was prompted by reports of chafing of a new configuration of the fuel return line assembly, which was caused by the fuel return line assembly rubbing against the right steering tube assembly during rudder pedal actuation. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

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

(g) Inspect the Fuel Return Line Assembly

At whichever of the following compliance times that occurs later, inspect the fuel return line assembly (Cessna part number (P/N) 0516031–1) for damage following the Accomplishment Instructions section of Cessna Aircraft Company Service Bulletin SEB–28–01, dated September 21, 2012.

(1) At the next annual inspection after March 19, 2013 (the effective date of this AD);

(2) Within the next 100 hours time-in-service (TIS) after March 19, 2013 (the effective date of this AD); or

(3) Within the next 12 calendar months after March 19, 2013 (the effective date of this AD).

(h) Replace the Fuel Return Line Assembly

If you find evidence of damage of the fuel return line assembly (Cessna P/N 0516031–1) as a result of the inspection required by paragraph (g) of this AD, before further flight, replace the fuel return line assembly (Cessna P/N 0516031–1) following the Accomplishment Instructions section of Cessna Aircraft Company Service Bulletin SEB–28–01, dated September 21, 2012.

(i) Install the Fuel Return Line Assembly

If you find no evidence of damage of the fuel return line assembly (Cessna P/N 0516031–1) as a result of the inspection required by paragraph (g) of this AD, before further flight, reinstall the fuel return line assembly (Cessna P/N 0516031–1) following the Accomplishment Instructions section of Cessna Aircraft Company Service Bulletin SEB–28–01, dated September 21, 2012.

(j) Install Forward and Aft Fuel Return Line Support Clamps and Brackets

After installing the fuel return line assembly as required by replacement in paragraph (h) of this AD or installation in paragraph (i) of this AD, before further flight, install the forward and aft fuel return line support clamps and brackets following the Accomplishment Instructions section of Cessna Aircraft Company Service Bulletin SEB–28–01, dated September 21, 2012.

(k) Inspect for a Minimum Clearance Between Certain Parts

After the installation required by paragraph (j) of this AD, before further flight, inspect for a minimum clearance between the following parts throughout the range of copilot pedal travel. The requirements of this AD take precedence over the actions required in the Accomplishment Instructions section of Cessna Aircraft Company Service Bulletin SEB–28–01, dated September 21, 2012:

(1) A minimum clearance of 0.5 inch between the fuel return line assembly (Cessna P/N 0516031–1) and the steering tube assembly (Cessna P/N MC0543022–2C); and

(2) Visible positive clearance between the fuel return line assembly (Cessna P/N 0516031–1) and the airplane structure.

(l) Adjust Clearance for Fuel Return Line Assembly

If you find any clearance less than the minimum clearance required by paragraph (k) of this AD, before further flight, adjust to the minimum clearance required by paragraph (k) of this AD.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

For more information about this AD, contact Jeff Janusz, Aerospace Engineer, Wichita ACO, FAA, 1801 S. Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4148; fax: (316) 946–4107; email: *jeff.janusz@faa.gov*.

(m) Material Incorporated by Reference

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

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

(i) Cessna Aircraft Company Service Bulletin SEB–28–01, dated September 21, 2012.

(ii) Reserved.

(3) For Cessna Aircraft Company service information identified in this AD, contact Cessna Aircraft Company, Customer service, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; *customercare@cessna.textron.com*; Internet: *http://www.cessnasupport.com*.

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued in Kansas City, Missouri, on February 4, 2013.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02897 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1037; Directorate Identifier 2012–NM–008–AD; Amendment 39–17347; AD 2013–03–12]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model Mystere-Falcon 50 airplanes. This AD was prompted by a manufacturer revision to the airplane maintenance manual (AMM) that introduces new or more restrictive maintenance requirements and airworthiness limitations. This AD requires revising the maintenance program to incorporate new or revised maintenance requirements and airworthiness limitations. We are issuing this AD to prevent reduced structural integrity of the airplane.

DATES: This AD becomes effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 19, 2013.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 3, 2012 (77 FR 60323). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

The airworthiness limitations and maintenance requirements for the Mystère-Falcon 50 (MF50) type design are included in Dassault Aviation Mystère-Falcon 50 Aircraft Maintenance Manual (AMM) chapter 5–40 and approved by the European Aviation Safety Agency (EASA). EASA issued AD 2008–0221 to require accomplishment of the maintenance tasks and implementation of the airworthiness limitations, as specified in Dassault Aviation MF50 AMM chapter 5–40 at revision 17.

Since that [EASA] AD was issued, Dassault Aviation issued MF50 AMM chapter 5–40 at revision 21, which introduces new or more restrictive maintenance requirements and/or airworthiness limitations.

Dassault Aviation AMM chapter 5–40 revision 21 contains among other changes the following requirements:

—Corrosion Prevention and Control Programme (CPCP). Compliance with this programme was required by DGAC [Direction Générale de l'Aviation Civile] France AD F–2004–162 (EASA approval number 2004–10117). A new CPCP approach is now introduced in MF50 AMM chapter 5–40 at revision 21;

—Check of overpressure tightness on pressurization control regulating valves. Compliance with this check is required by EASA AD 2008–0072 [which corresponds to FAA AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010]. MF50 AMM chapter 5–40 at revision 21 introduces extended inspection interval;

—Non destructive check of the flap tracks 2 and 5. Compliance with this check is required by EASA AD 2010–0080.

The maintenance tasks and airworthiness limitations, as specified in the MF50 AMM chapter 5–40, have been identified as mandatory actions for continued airworthiness of the MF50 type design. Failure to comply with AMM chapter 5–40 at revision 21 might constitute an unsafe condition [which could result in reduced structural integrity of the airplane].

For the reasons described above, this [EASA] AD, which supersedes DGAC France AD F–2004–162, requires the implementation of the maintenance tasks and airworthiness limitations, as specified in Dassault Aviation MF50 AMM chapter 5–40 at revision 21.

The required action is revising the maintenance program to incorporate all airworthiness limitations and maintenance tasks specified in Section 05–40/00, Airworthiness Limitations, of Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 21, dated June 2011. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 60323, October 3, 2012) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 60323, October 3, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 60323, October 3, 2012).

Costs of Compliance

We estimate that this AD will affect 253 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $21,505, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 60323, October 3, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–12 Dassault Aviation: Amendment 39–17347. Docket No. FAA–2012–1037; Directorate Identifier 2012–NM–008–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 19, 2013.

(b) Affected ADs

Certain requirements of this AD terminate the requirements of AD 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012); and AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010); for the airplanes identified in paragraph (c) of this AD.

(c) Applicability

(1) This AD applies to Dassault Aviation Model Mystere-Falcon 50 airplanes, certificated in any category, all serial numbers.

(2) This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic inspections.

(e) Reason

This AD was prompted by a manufacturer revision to the airplane maintenance manual (AMM) that introduces new or more restrictive maintenance requirements and/or airworthiness limitations. We are issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Maintenance Program Revision

Within 30 days after the effective date of this AD: Revise the maintenance program to incorporate all airworthiness limitations and maintenance tasks specified in Section 05–40/00, Airworthiness Limitations, of Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 21, dated June 2011. The initial compliance times for the tasks are at the applicable times specified in Section 05–40/00, Airworthiness Limitations, of Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 21, dated June 2011, or within 30 days after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

After accomplishing the revisions required by paragraph (g) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used other than those specified in Section 05–40/00, Airworthiness Limitations, of Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 21, dated June 2011, unless the actions, intervals, and/or CDCCLs are approved as an alternative methods of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for Certain ADs

Accomplishing the actions required by paragraph (g) of this AD terminates the requirements of AD 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012); and AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010); for the Dassault Aviation Model Mystere-Falcon 50 airplanes specified in those ADs.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0246, dated December 22, 2011; and Section 05–40/00, Airworthiness Limitations, of Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 21, dated June 2011; for related information.

(l) Material Incorporated by Reference

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

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

(i) Section 05–40/00, Airworthiness Limitations, of Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 21, dated June 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.*

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

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

Issued in Renton, Washington, on February 1, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02891 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1223; Directorate Identifier 2012–NM–154–AD; Amendment 39–17348; AD 2013–03–13]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain

Embraer S.A. Model ERJ 170 and ERJ 190 airplanes. This AD was prompted by reports of the cockpit door falling off the hinges when it is being opened or closed. This AD requires replacing the striker and quick-release pin of the passive lock of the cockpit door, and replacing the upper and lower hinges of the cockpit door. We are issuing this AD to prevent the cockpit door from falling off the hinges, which could cause injury to airplane occupants.

DATES: This AD becomes effective March 19, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 19, 2013.

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

FOR FURTHER INFORMATION CONTACT: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2768; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 6, 2012 (77 FR 72776). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> This [Agência Nacional de Aviação Civil (ANAC)] AD was prompted by reports of cockpit door falling off the hinges when it is being opened or closed. If not corrected, this condition may cause injury to the occupants.
>
> * * * * *

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

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The Air Line Pilots Association, International (ALPA) supports the intent of the NPRM (77 FR 72776, December 6, 2012).

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 72776, December 6, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 72776, December 6, 2012).

Costs of Compliance

We estimate that this AD will affect 253 products of U.S. registry. We also estimate that it will take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $129,030 or $510 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 72776, December 6, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–03–13 Embraer S.A.: Amendment 39–17348. Docket No. FAA–2012–1223; Directorate Identifier 2012–NM–154–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 19, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Embraer S.A. Model ERJ 170–100 LR, –100 STD, –100 SE., and –100 SU airplanes;

and Model ERJ 170–200 LR, –200 SU, and –200 STD airplanes; certificated in any category; as identified in EMBRAER Service Bulletin 170–52–0055, Revision 01, dated August 1, 2011.

(2) Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; certificated in any category; as identified in EMBRAER Service Bulletin 190–52–0038, Revision 01, dated August 1, 2011, and EMBRAER Service Bulletin 190LIN–52–0020, dated August 1, 2011.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by reports of the cockpit door falling off the hinges when it is being opened or closed. We are issuing this AD to prevent the cockpit door from falling off the hinges, which could cause injury to airplane occupants.

(f) Compliance

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

(g) Required Actions and Compliance Time

Within 1,500 flight hours after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Replace the striker and quick-release pin of the passive lock of the cockpit door, in accordance with Part I of the Accomplishment Instructions of the applicable service bulletin specified in paragraph (g)(1)(i), (g)(1)(ii), or (g)(1)(iii) of this AD.

(i) EMBRAER Service Bulletin 170–52–0055, Revision 01, dated August 1, 2011 (for Model ERJ 170 airplanes).

(ii) EMBRAER Service Bulletin 190–52–0038, Revision 01, dated August 1, 2011 (for Model ERJ 190 airplanes except for Model ERJ 190–100 ECJ airplanes).

(iii) EMBRAER Service Bulletin 190LIN–52–0020, dated August 1, 2011 (for Model ERJ 190–100 ECJ airplanes).

(2) Replace the cockpit door upper and lower hinges in accordance with Part III of the Accomplishment Instructions of the applicable service bulletin specified in paragraph (g)(2)(i), (g)(2)(ii), or (g)(2)(iii) of this AD.

(i) EMBRAER Service Bulletin 170–52–0055, Revision 01, dated August 1, 2011 (for Model ERJ 170 airplanes).

(ii) EMBRAER Service Bulletin 190–52–0038, Revision 01, dated August 1, 2011 (for Model ERJ 190 airplanes except for Model ERJ 190–100 ECJ airplanes).

(iii) EMBRAER Service Bulletin 190LIN–52–0020, dated August 1, 2011 (for Model ERJ 190–100 ECJ airplanes).

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using EMBRAER Service Bulletin 170–52–0055, dated February 10, 2011 (for Model ERJ 170 airplanes); or EMBRAER Service Bulletin 190–52–0038, dated February 10, 2011 (for Model ERJ 190 airplanes except for Model ERJ 190–100 ECJ airplanes); which are not incorporated by reference in this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2768; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(j) Related Information

Refer to MCAI Brazilian Airworthiness Directives 2012–08–02 and 2012–08–03, both effective September 5, 2012, and the service bulletins identified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, for related information.

(1) EMBRAER Service Bulletin 170–52–0055, Revision 01, dated August 1, 2011.

(2) EMBRAER Service Bulletin 190–52–0038, Revision 01, dated August 1, 2011.

(3) EMBRAER Service Bulletin 190LIN–52–0020, dated August 1, 2011.

(k) Material Incorporated by Reference

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

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

(i) EMBRAER Service Bulletin 170–52–0055, Revision 01, dated August 1, 2011.

(ii) EMBRAER Service Bulletin 190–52–0038, Revision 01, dated August 1, 2011.

(iii) EMBRAER Service Bulletin 190LIN–52–0020, dated August 1, 2011.

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

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

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

Issued in Renton, Washington, on February 1, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–02902 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9605]

RIN 1545–BG31; 1545–BL38

Payout Requirements for Type III Supporting Organizations That Are Not Functionally Integrated; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9605) that were published in the **Federal Register** on Friday, December 28, 2012 (77 FR 76382). The final and temporary regulations provide guidance regarding the requirements to qualify as a Type III supporting organization that is operated in connection with one or more supported organizations. The regulations reflect changes to the law made by the Pension Protection Act of 2006.

DATES: This correction is effective on February 12, 2013 and is applicable after December 28, 2012.

FOR FURTHER INFORMATION CONTACT: Preston J. Quesenberry, at (202) 622–6070 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9605) that are the subject of this

correction is under section 509 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations (TD 9605) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final and temporary regulations (TD 9605), that are the subject of FR Doc. 2012–31050, are corrected as follows:

1. On page 76388, column 1, in the preamble, under the paragraph heading ''b. Being the Parent of Each Supported Organization'', line 11, the language ''supporting organization if the'' is corrected to read ''supported organization if the''.

2. On page 76388, column 2, in the preamble, under the same paragraph heading, line 9 of the column, the language ''or trustees of the supporting '' is corrected to read ''or trustees of the supported''.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2013–03089 Filed 2–11–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

[SATS NO. TN–001–FOR; OSM 2011–0010]

Tennessee Abandoned Mine Land Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Tennessee Abandoned Mine Land (AML) Reclamation Plan (AML Plan). A 2006 amendment to the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), authorized reinstitution of the Tennessee AML program as a minimum funded program state following the suspension of the AML Plan and program after Tennessee's regulatory program was withdrawn in 1984. Pursuant to the authority granted under the Tennessee Code Annotated (TCA), Section 59–8–324(m), Tennessee's Department of Environment and Conservation (TDEC), has revised the AML Plan to reflect statutory, regulatory, policy, procedural, and organizational changes that have occurred since 1984.

DATES: *Effective Date:* February 12, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Earl Bandy Jr., Field Office Director, Knoxville Field Office, Telephone: (865) 594–4103, E-Mail: ebandy@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Tennessee Program
II. Description and Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of the Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Tennessee Program

Regulatory Program (Title V): Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a state law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Tennessee program on August 10, 1982. *See* 47 FR 34753.

Withdrawal of Tennessee's Regulatory Program: As a result of Tennessee's failure to effectively implement, administer, maintain or enforce its program, on April 8, 1983, the Director of OSM notified the Governor of Tennessee of the problems and sought corrective measures pursuant to 30 CFR part 733. OSM concluded that the State failed to adequately indicate its intent and capability to implement, maintain, and enforce its regulatory program and, on April 18, 1984, OSM substituted direct Federal enforcement of the inspection and enforcement portions of the TN regulatory program pursuant to 30 CFR 733.12. *See* 49 FR 15496.

On May 16, 1984, the State repealed most of the Tennessee Coal Surface Mining Law of 1980, effective October 1, 1984, and OSM withdrew approval of the Tennessee performance regulatory program in full, effective October 1, 1984. *See* 49 FR 38874.

Abandoned Mine Lands Program (Title IV): Title IV of the Surface Mining Act establishes an AML program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or Federal law. Title IV provides that a state with an approved surface mining regulatory program may have an AML program approved which gives it the responsibility and primary authority to implement the plan. On August 10, 1982, Tennessee's reclamation plan was approved. *See* 47 FR 34757.

Suspension of Tennessee's AML Program: The withdrawal of Tennessee's regulatory program also affected Tennessee's AML program. Section 405 (c) of the Act provides that the Secretary shall not approve, fund, or continue to fund a state AML program unless that state has an approved state regulatory program pursuant to Section 503 of the Act. Regulations implementing this provision were formerly found at 30 CFR 884.11, State Eligibility.

The requirements of 30 CFR 884.16, Suspension of Plan, provide that upon withdrawal of regulatory program approval, the Director may suspend the AML Plan. On October 5, 1984, OSM assumed responsibility and authority for carrying out the provisions of Title IV within the state of Tennessee. *See* 49 FR 15505.

Since that time, Tennessee no longer receives an annual distribution of Federal funds for the purposes of carrying out an AML program (including administrative costs). Emergency and non-emergency projects in Tennessee were addressed by OSM, with OSM utilizing Federal contracts or cooperative agreements between OSM and Tennessee to procure construction services.

Tennessee as a Minimum Program State: As a result of the AML Reauthorization Bill of 2006 (2006 SMCRA Amendment), Congress authorized Tennessee to have an AML program and considered it a minimum funded program state, without a permanent regulatory program. The Bill provided that beginning in fiscal year 2008, Tennessee would be able to expend funds for reclamation of inventoried projects in accordance with the priorities of Section 403(a)(1) and (2). Since Tennessee is now authorized as a ''minimum program state,'' it is also

eligible to receive funding to assume primary responsibility for administering the emergency program within the state.

Updated Federal regulations: As stated above, at the time of Tennessee's regulatory program withdrawal, the Federal regulations at 30 CFR 884.16 precluded a regulatory authority from receiving Federal funding for an AML program if its regulatory program was withdrawn. However, the 2006 SMCRA Amendment granted exceptions from that rule. The Federal regulations at 30 CFR 884.11 were amended on November 14, 2008, to accommodate this change. In addition, the revised regulations at 30 CFR 886.23 now provide the states of Tennessee and Missouri are exempt from the requirement for an approved state regulatory program by Section 402(g)(8)(B) of SMCRA and are eligible to have an AML reclamation plan and funding. *See* 73 FR 67642.

II. Description and Submission of the Proposed Amendment

By letter dated April 6, 2011, (Administrative Record Number TN–1671), Tennessee requested OSM approve the Tennessee Reclamation Plan amendment. Currently, 30 CFR 942.20, Approval of Tennessee reclamation plan for lands and waters affected by past coal mining, refers to the Tennessee Reclamation Plan as submitted on March 24, 1982, as being the currently approved plan of record. This amendment seeks to address Federal and State changes that occurred since 1984, when the State's regulatory program was withdrawn.

This amendment request formalizes discussions that took place between OSM and the State since the 2006 SMCRA Amendment. In a letter dated August 6, 2007 (Administrative Record No. TN–1670), OSM noted that an AML plan revision was necessary to update the reclamation plan of record to include any Federal and State changes that had occurred since 1984 as further described below:

Federal Statutory Changes: Since Tennessee forfeited primacy in 1984 there have been three statutory changes and one Presidential order, with impact on the effectiveness of the current AML plan of record. These include (1) The Abandoned Mine Reclamation Act of 1990: This bill revised the AML program to address interim program sites, insolvent sureties, acid mine drainage (AMD) and mined land set-aside funds, fund objectives and priorities, and other issues; (2) the Energy Policy Act of 1992: This bill revised the AML program in areas of coal re-mining, abandoned coal refuse sites, as well as cooperative agreements for coal formation fire control projects; and (3) the AML Reauthorization Bill of 2006: This bill extended the AML fee collection authority from 2007 to 2021, and revised the AML program in the areas of appropriation of funds, allocation formulas, fund objectives and priorities, AMD set aside accounts, water supply projects, State share payments, re-mining incentives, and minimum program funding to include the State of Tennessee.

Federal Regulatory Changes: Changes made to the Federal regulatory provisions as a result of the aforementioned statutory changes, affecting Tennessee's current Reclamation Plan of record, are as follows: 30 CFR part 872, Moneys Available to Eligible States and Indian tribes; Part 874, General Reclamation Requirements; Part 876, Acid Mine Drainage Treatment and Abatement Program; Part 879, Management and Disposition of Lands and Water; Part 882, Reclamation on Private Land; Part 884, State Reclamation Plans; and Part 886, Reclamation Grants for Uncertified States and Indian Tribes. These regulation changes involved changes to the definitions of eligible lands and water, interim program eligibility requirements, reclamation objectives and priority designations, reclamation contractor responsibilities, state reclamation grant reporting, grant requirements, water supply projects, AMD set-aside accounts, and government-financed construction projects. *See* 73 FR at 67638.

Presidential Order—Grants management: Other Federal changes affecting Tennessee's current Reclamation Plan of record include changes to grant laws, policies, and procedures that have occurred since 1984. Currently, Federal grant funds (including AML grant funds) are governed by the guidelines issued by the President's Office of Management and Budget (OMB). On March 12, 1987, the President directed all affected agencies to issue a common grants management rule to adopt Government-wide terms and conditions for financial assistance to state and local governments (referred to as the Grants Management Common Rule). OMB Circular A–102 was revised in 1988, to provide additional guidance to Federal agencies. The Department of the Interior issued its common rule on March 11, 1988, at 43 CFR part 12.

The Grants Management Common Rule allows States to use their own procedures to manage their financial management, equipment, and procurement systems. OMB Circular A–102 was revised on October 14, 1994, to include updated direction on: (1) Implementation of the metric system; (2) review of infrastructure investment; (3) implementation of the Resource Conservation and Recovery Act; and (4) public announcement of the amount of Federal funds used in certain contract awards. As a result of the Presidential Order, the grants management guidelines were codified at 43 CFR part 12 and extensive revisions were made to OSM's Federal Assistance Manual (FAM). In addition to the changes resulting from the Common Rule, OSM simplified the AML grant process in 1993, and these changes were also incorporated into the FAM.

State Statutes and Regulations: The current Tennessee AML Reclamation Plan references Tennessee statute (Tennessee Coal Surface Mining Law of 1980) and regulations (Chapter 0400–1–24 of the Rules of the Tennessee Department of Conservation, Division of Surface Mining). TCA Section 59–8–324(m) is approved as it complies with 30 CFR part 884.

State Policies, Procedures, and Administration and Organization: Federal regulations at 30 CFR 884.13 outline the content of the AML reclamation plans. This includes State agency designations and legal opinions; description of the policies and procedures to be followed by the designated agency in conducting the reclamation program; and a description of the administrative and management structure to be used in conducting the reclamation program. These designations, opinions, policies, procedures (including coordination procedures), and organizational entities are current and will continue to be updated as necessary.

Review of the Proposed Amendment

OSM announced receipt of the proposed amendment in the Monday, February 6, 2012, **Federal Register,** 77 FR 5740. In the same document, the public comment period was opened and an opportunity for public hearing or meeting was given. OSM did not hold a public hearing or meeting because none was requested.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment. Any revisions that we do not specifically discuss below concern non-substantive wording or editorial changes.

Content of the Revised Tennessee Reclamation Plan: Tennessee has

submitted an updated reclamation plan in an effort to address the concerns noted above. This updated plan, when approved, will entirely supersede the 1982 Tennessee AML Plan. The revised plan includes the following sections: Governor's Letter of Designation; Legal Opinions; Portions of the Tennessee Code Annotated; Purpose of the State Reclamation Program; Ranking and Selection; Coordination with Other Programs; Land Acquisition, Management and Disposal; Reclamation on Private Land; Rights of Entry; Public Participation Policies; Organization; Staffing Policies; Purchasing and Procurement; Accounting System; Location of Known or Suspected Eligible Land and Water; Description of Problems Occurring on Lands and Waters; Reclamation Proposals; Economic Base; Aesthetic, Historical or Cultural, and Recreation Values; and Endangered and Threatened Plant, Fish, Wildlife and Habitat. The revised plan replaces the old plan and is revised in parts; re-designated in parts; removed in parts and added in parts. Due to the extensive overhaul of the plan, a section by section description of changes was not included. However, we reviewed all substantive changes, each of which is set forth in this section.

Below are the substantive changes made on behalf of Tennessee to address a revised letter of designation that was received by the Governor specifically designating the TDEC as the agency authorized to receive, administer and disburse federal grants pursuant to Title IV of SMCRA. Furthermore, citation to the Tennessee Code Annotated, at Section 59–8–324, codifying TDEC's authority to conduct a reclamation program was added.

The ''Purpose of the State Reclamation Program'' was altered to directly reflect 30 CFR 884.13(c)(1) verbiage. Specific problem sources identified by OSM in the former draft were replaced with all-inclusive language as detailed in 30 CFR part 884; specifically, ''reclaiming those areas adversely impacting'' and ''areas contributing to environmental degradation consistent with Section 401 through 415 of SMCRA'' was added. The ''Ranking and Selection'' section was modified by adding the new title and eliminating superfluous verbiage. However, on page 10 of the revised Plan, the citation to ''30 CFR 403(a)(1)(ii)'' is incorrect. The correct citation is ''30 CFR 874.13(a)(1)(ii).'' Therefore, we recommend that Tennessee make this change. Submission of the citation change to OSM for approval is not necessary.

To maintain consistency with 30 CFR 884.13, reference to mandatory written approval by OSM prior to commencement of AML project construction was added.

At the recommendation of OSM, Tennessee revised its proposed amendment to read, ''Land Acquisition, Management and Disposal.'' Additionally, changes were made to this section to ensure it complies with 30 CFR part 879, Acquisition, Management, and Disposition of Lands and Water. This section is also in conformity with the Tennessee Code Annotated Section 59–8–324, granting authority for Tennessee's acquisition, management and disposal of land disturbed by past mining. Standards for professional Tennessee approved appraisers have been implemented when assessing the fair market value of land.

Donations of land may be accepted if terms and conditions, as approved by TDEC, are not inconsistent with the Tennessee program and the deed states the transfer is a gift pursuant to SMCRA. Condemnation proceedings may ensue, but this is rare and contrary to Tennessee policy preferences. All reference to Federal approval of condemnations is removed. However, on page 20 of the revised Plan, first paragraph, after ''Section 324'', a citation to ''30 CFR 879.11 and 879.12'' should be added. Therefore, we recommend that Tennessee make these changes. Submission of the changes to OSM for approval is not necessary.

The former section, ''Rights of Entry,'' was altered to add a procedure for entry when written consents could not be obtained. Moreover, this section was moved and a new section ''Reclamation on Private Land,'' was inserted detailing some of the former components of the previous ''Rights of Entry Section.'' The new section was altered to mandate that appraisals, including calculations relevant to fair market value, be performed prior to the commencement of reclamation. Additionally, factors allowing the State to waive liens must be established prior to the commencement of reclamation.

''Public Participation Policies'' removed references to the 1982 AML Plan and now mirror OSM's public participation process mandates; specifically, public notices will be placed in local newspapers, and public participation policies are provided during the construction of the annual work plan. OSM approves this provision upon the understanding that the preparation of a finding of no significant impact, as specifically referenced in the AML Plan, is not the exclusive environmental document that may be prepared upon review of a potential project. In the alternative an environmental impact statement or a categorical exclusion would be prepared if necessary.

The plan was revised to indicate that the Division of Water Pollution Control, Land Reclamation Section is now responsible for ensuring AML reclamation, managing major functions, collecting data entered into the AML inventory system pursuant to OSM directives, developing policies and procedures, and requesting legal assistance from General Counsel who determines eligibility. A revised organizational chart was also included. With regard to AML problem eligibility, Tennessee has added that AML problems include landslide hazards, highwalls, flooding, erosion, sedimentation, acid drainage, coal seam/refuse fires, subsidence, water loss, dangerous impoundments, abandoned structures/equipment, open mine portals, and open mine shafts and refuse areas. Tennessee further revised priority designations.

References to OMB Circular A–102 were removed and a statement was added that purchasing and procurement systems used for all contracts conform to the requirements of the Grants Management Common Rule. In addition, statements are also included regarding the procurement approval process, competition, small business utilization, advertising, bidder eligibility, and independent audits.

No further revisions, with the exception of minor wording, editorial, punctuation or grammatical changes, were made after the **Federal Register** notice. Because the substantive changes to the AML Plan meet the requirements of the Federal regulations at 30 CFR 884.13, 884.14, and 884.15, OSM hereby approves this amendment.

IV. Summary and Disposition of Comments

Public Comments

OSM asked for public comments on the amendment [Administrative Record Number TN–1671], but did not receive any.

State Agency Comments

To fully comply with 30 CFR 884.14, OSM requested comments on the amendment from various State agencies with an actual or potential interest in the Tennessee program [Administrative Record Number TN–1671]. Comments were received from the Tennessee Historic Commission (THC) on May 15, 2012 [Administrative Record Number TN–1675]. Specifically, THC requested

that the AML Plan be altered to read, ''[t]he Executive Director of the Tennessee Historical Commission serves as the State Historic Preservation Officer.'' Therefore, we recommend that Tennessee remove the term ''Commissioner,'' and replace it with ''Executive Director.'' Submission of the terminology change to OSM prior to approval is not necessary. THC also requests that Tennessee submit project requests to THC for review prior to submission to OSM. Additionally, THC requests Tennessee submit all proposed remediation or reclamation projects to THC prior to submissions to OSM. Following consultation with Tennessee, OSM has confirmed that this occurs as a matter of course; therefore, no revision to the proposed amendment is required.

Federal Agency Comments

Under 30 CFR 884.14 and section 414 of SMCRA, OSM requested comments on the amendment from various Federal agencies with an actual or potential interest in the Tennessee program [Administrative Record Number TN–1671]. On June 1, 2012, a comment was received from the United States Fish and Wildlife Service (USFWS). [Administrative Record Number TN–1676]. The USFWS expressed concern regarding reclamation projects receiving less than 50% government funding. The USFWS interpreted the AML Plan to exclude the USFWS from assessment of environmental impacts in situations where coal extraction occurs. However, this interpretation is incorrect. Requisite in an analysis of any AML construction is the responsibility of OSM to comply with the National Environmental Policy Act (NEPA) 42 U.S.C. 4321 *et seq.* As detailed in the AML Plan, TDEC must ensure each reclamation project is ''conducted in accordance with the provisions of 30 CFR Subchapter R.'' This section provides that any expenditure requiring compliance with the NEPA may not be used by the State until all actions necessary to ensure compliance with NEPA are taken. 30 CFR 886.16(d). As detailed in the FAM, used to assess NEPA applicability, compliance with NEPA includes consultation with agencies having jurisdiction over potentially affected resources. The USFWS is identified as one of the agencies with which consultation is necessary. Additionally, any coal extracted beyond the limits of the incidental coal is subject to the requirements of Title V of SMCRA permitting procedures under which the USFWS is consulted. Additionally, the AML Plan directly states, ''[t]he Tennessee AML program follows an approved consultation process involving a number of Federal and State agencies having either direct or indirect interests in proposed reclamation projects. Consistent with the [FAM] requirements to assure compliance with the [NEPA], TDEC consults with Federal and State agencies to prepare environmental documents on all proposed reclamation projects.'' Thus, the concerns of the USFWS are adequately addressed.

V. OSM's Decision

Based on the above findings, we approve the Tennessee amendment received on April 6, 2011. To implement this decision, OSM is amending the Federal regulations at 30 CFR part 942, which codify decisions concerning the Tennessee program. We are approving this amendment because it complies with the requirements of 30 CFR 884.13, 884.14 and 884.15, providing for content of State reclamation plans, State reclamation plan approval, and State reclamation plan amendments. OSM finds good cause exists pursuant to 5 U.S.C. 533(d) (the Administrative Procedure Act) to make this final rule effective immediately. SMCRA requires that the State's program demonstrate the state has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately by reinstating the AML Plan will expedite this process. The Federal statute and regulatory changes referenced herein fully support the implementation of this regulation. Moreover, SMCRA requires consistency of State and Federal standards and this objective is achieved.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have Federal takings implications. The State of Tennessee expresses a policy preference of performing reclamation on abandoned mine lands through securing voluntary rights of entry, or in situations where owner approval to enter property is not given, to utilize friendly police power. As detailed in the amendment, when necessary, land or interests in land may be acquired by condemnation; however, this is rare and no condemnation proceeding shall be commenced until all reasonable efforts have been made to purchase the land or interests in land from a willing seller.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of Interior has conducted the reviews required by Section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of Subsections (a) and (b). However, these standards are not applicable to the actual language of State AML plans and plan amendments because each plan is drafted and promulgated by a specific State, not by OSM. Under Sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 884.15, decisions on proposed State AML plans and plan amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR part 884 have been met. This amendment addresses the State reclamation plan re-institution, as detailed herein.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments regarding the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary. As discussed herein, revisions made pursuant to the 2006 SMCRA Amendment now allow funding for State Reclamation Plans, absent a regulatory program in the State. However, as outlined in CFR part 884 the requirements of SMCRA must be met.

Executive Order 13175—Consultation and Coordination With Indian Tribal Government

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of

power and responsibilities between the Federal government and Indian tribes. The basis for this determination is that our decision is relative to the implementation of a State Reclamation Plan and does not involve a Federal program involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply Distribution or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 requiring agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 (Regulatory Planning and Review), and (2) likely to have significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because it is deemed a categorical exclusion within the meaning of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). It is documented in the DOI Departmental Manual 516 DM 13.5 (B)(29), that agency decisions on approval of State reclamation plans for abandoned mine lands do not constitute major Federal actions.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have significant economic impact, the Department relied upon data and assumptions for the Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule is based upon Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 942

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 2, 2012.

Michael K. Robinson,

Acting Regional Director, Appalachian Region.

Editorial Note: This document was received at the Office of the Federal Register on February 6, 2013.

For the reasons set out in the preamble, 30 CFR part 942 is amended as set forth below:

PART 942—TENNESSEE

■ 1. The authority citation for part 942 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 942.25 is added to read as follows:

§ 942.25 Approval of Tennessee abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the **Federal Register** and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the **Federal Register.**

Original amendment submission date	Date of publication of final rule	Citation/Description of approved provisions
April 6, 2011	February 12, 2013	Revised AML Plan. TCA Section 59–8–324(m).

[FR Doc. 2013–03053 Filed 2–11–13; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SATS No. UT–047–FOR; Docket ID No. OSM–2010–0012]

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Utah regulatory program (the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (''SMCRA'' or ''the Act''). Utah proposed revisions to and additions of rules pertaining to Valid Existing Rights (VER). Utah revised its program to be consistent with the corresponding Federal regulations.

DATES: *Effective Date:* February 12, 2013.

FOR FURTHER INFORMATION CONTACT: Kenneth Walker, Chief, Denver Field Division, Telephone: (303) 293–5012, Internet address: *kwalker@OSMRE.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program
II. Submission of the Proposed Amendment
III. Office of Surface Mining Reclamation and Enforcement's (OSM's) Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Utah Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Utah program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Utah program in the January 21, 1981, **Federal Register** (46 FR 5899). You can also find later actions concerning Utah's program and program amendments at 30 CFR 944.15 and 944.30.

II. Submission of the Proposed Amendment

By letter dated August 9, 2010, Utah sent us an amendment to its program (SATS number UT–047–FOR, Administrative Record No. UT–1224) under SMCRA (30 U.S.C. 1201 *et seq.*). Utah sent the amendment in response to our February 1, 2008, letter to Utah sent in accordance with 30 CFR 732.17(c) (Administrative Record No. UT–1223). The provisions of the Utah Administrative Code (UAC) that Utah proposed to revise and/or add were: R645–100–200, Definition of Valid Existing Rights; R645–103–221; R645–103–223 through -225; R645–103–230 through -240; R645–201–328; R645–201–342; R645–300–133; R645–301–115; and R645–301–411. All changes pertain to Valid Existing Rights.

We announced receipt of the proposed amendment in the September 30, 2010, **Federal Register** (75 FR 60375). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record No. UT–1225). We did not hold a public hearing or meeting because no one requested one. We did not receive any comments on the amendment proposal.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Utah proposed revisions to the following rules containing language that is the same as or similar to the corresponding sections of the Federal regulations. We are approving the amendment.

R645–100–200, *Definition of Valid Existing Rights.* Utah proposed to adopt the Federal definition of VER nearly verbatim, changing only appropriate State references and using the term ''mining and reclamation operations'' in place of the Federal ''surface coal mining operations.'' These existing terms share similar definitions and encompass all of the same activities. This term occurs throughout the UAC, including the revisions discussed below. For a complete discussion of the changes to the definition of Valid Existing Rights, see our December 17, 1999 **Federal Register** notice (64 FR 70765). Utah's proposed VER definition is functionally identical to and no less effective than its Federal counterpart.

R645–103–221 was revised to delete the word ''and'' from the term ''Valid and Existing Rights.'' This editorial change provides consistency for the usage of the term as defined under both Utah and Federal rules without altering the provision's meaning or effectiveness.

R645–103–223, *Areas Designated by Acts of Congress; Division responsibilities.* Utah revised this section to add a specific reference to Section 522(e)(2) of SMCRA. This is the section of SMCRA which prohibits mining on Federal lands within the boundaries of any national forest unless the Secretary of Agriculture finds that there are no significant recreational, timber, economic, or other values which may be incompatible with mining operations. This is the appropriate section of SMCRA to reference for ensuring mining is permissible on Federal lands in national forests.

R645–103–224, *Areas Designated by Acts of Congress; Areas Unsuitable for Coal Mining and Reclamation Operations.* As proposed for revision, this section and the corresponding Federal regulation at 30 CFR 761.11 prohibit mining on the same lands designated as unsuitable by acts of Congress unless the applicant has VER. Utah proposed to adopt Federal counterpart language nearly verbatim for the majority of this section. The Custer National Forest is not in Utah and is therefore not included, and Utah makes appropriate references to the UAC where Federal regulations reference 30 CFR. All references have been cross-checked and verified to be appropriate. Rather than adopt counterpart language to 30 CFR 761.12, Utah references it under proposed R645–103–225. Because Utah incorporates the Federal requirements by reference, this part is no less effective than its Federal counterpart. Utah's proposed R645–103–224 and 645–103–225 are substantively identical to 30 CFR 761.11 and 761.12.

R645–103–230 through 233, *Areas Designated by Acts of Congress, Procedures.* Utah proposed amendments to this subsection to be the same as its Federal counterpart (30 CFR 761.17), with appropriate references to the UAC rather than 30 CFR. All references have been cross-checked and verified to be appropriate. Utah references 30 CFR 761.16 for determining State and Federal responsibilities for VER determinations, establishing application requirements, evaluation procedures and decision making criteria, providing public participation and notification of affected parties, and establishing requirements for the availability of records. This is the correct reference to the CFR for the listed procedures and requirements. By employing the Federal regulation, Utah ensures this part is no less effective than the Federal counterpart. All proposed changes to this part alter the provision to more closely mirror Federal counterpart language.

R645–103–234, *Procedures for relocating a public road or waiving the prohibition on coal mining and reclamation operations within the buffer zone of a public road.* Utah proposed to adopt Federal language into the UAC with appropriate reference changes to the UAC and minor editorial changes to reflect the State program. All references have been cross-checked and verified to be appropriate. Utah is adopting all of the same requirements for relocating or closing public roads and waiving the prohibition on coal mining and reclamation operations within the buffer zone of a public road as the Federal program. This provision is substantively identical to its Federal counterpart.

R645–103–235, *Procedures for waiving the prohibition on coal mining and reclamation operations within the buffer zone of an occupied dwelling.*

Utah proposed Federal language to be adopted under the UAC, with appropriate reference changes. This language indicates that procedures for waiving the prohibition on coal mining and reclamation operations within the buffer zone of an occupied dwelling do not apply to lands for which a person has VER, existing operations which have been granted an exception, or roads that connect to an existing public road on the opposite side of the dwelling. Minor recodification changes were necessary as a result of new language added. Recodification changes do not alter the meaning or effectiveness of the provision. Utah also incorporates minor wording changes to mirror Federal counterpart language.

R645–103–236, *Procedures where operations will adversely affect any publicly owned park or any place included in the National Register of Historic Places.* Utah proposed additional text stipulating the procedures for joint regulatory approval of permits which would adversely affect publicly owned parks or historic places. The proposed text directly mirrors counterpart Federal language with appropriate reference changes to UAC rather than 30 CFR. All references have been cross-checked and verified to be appropriate. This subsection is substantively identical to its Federal counterpart.

R645–103–237 through –238, *Procedures for applicants intending to conduct operations on Federal lands within a national forest.* Utah proposed language directly corresponding to the counterpart Federal provision (30 CFR 761.13). Minor differences in wording reflect the state program and do not detract from the provision's meaning or effectiveness. Appropriate reference changes to UAC rather than 30 CFR have been made. Utah references the Federal definition of ''significant recreational, timber, economic, or other values incompatible with surface coal mining operations'' at 30 CFR 761.5. Referencing the Federal definition ensures that the term is as inclusive as the Federal term. This provision is substantively identical to its Federal counterpart. A minor recodification change was necessary as a result of the new language added. Recodification changes do not alter the meaning or effectiveness of the provision.

R645–103–239, *Administrative and judicial review of VER determinations.* Utah proposed to delete language referring to coal mining and reclamation operations existing on the date of enactment of the coal regulatory program. This deletion reflects a fundamental change made to the Federal program on December 17, 1999 (64 FR 70766). OSM deleted the requirement that VER must be determined based on property rights and other conditions as they existed on August 3, 1977, from the Federal program. OSM did this because SMCRA section 522(e) neither defines VER nor specifies that VER must be determined on the basis of property rights as they existed on the date of enactment. Because the lands and features protected by 30 CFR 761.11 and SMCRA 522(e) are continually changing, OSM believed VER should be determined on the basis of property rights and circumstances that exist at the time that lands come under the protection of 522(e) and 30 CFR 761.11. This revision makes the provision substantively identical to its Federal counterpart (30 CFR 761.16(f)).

R645–103–240, *Interpretive rule, subsidence due to underground mining.* Proposed additional language indicates that subsidence due to underground mining is not included in the definition of surface coal mining and reclamation operations and is therefore not prohibited in areas protected under SMCRA 522(e). Proposed language directly corresponds to 30 CFR 761.200. Therefore, its inclusion does not conflict with, and is no less effective than, the Federal program.

R645–201–328, *Major coal exploration permits, minimizing interference with the values for which lands were designated unsuitable for coal mining and reclamation operations.* Utah proposed new language directly corresponding to 30 CFR 772.12(14). This provision requires applicants to demonstrate that exploration activities have been designed to minimize interference with the values for which the land was designated unsuitable for coal mining and reclamation operations. The provision also requires documentation of landowner/agency consultation. New language is substantively identical to its Federal counterpart.

R645–201–342, *Major coal exploration permits, written findings required for Division approval of applications.* Utah proposed new language directly corresponding to 30 CFR 772.12(d)(2)(iv). This part requires the Division to find, in writing, that exploration activities on lands protected under R645–103–224 will minimize interference with the values for which those lands have been designated as unsuitable for coal mining and reclamation operations. Before making the finding, the Division must provide a reasonable opportunity for the landowner or agency with primary jurisdiction over the feature to comment on whether the finding is appropriate. Proposed language directly mirrors its Federal counterpart, with appropriate changes for the State program. Additional changes to existing language under R645–201–342 make the provision mirror its Federal counterpart more closely.

R645–300–133, *Written findings for permit application approval.* Utah proposed minor wording changes to more closely mirror Federal counterpart language and to add additional language containing permit application requirements for remining operations. Utah references its range of permit eligibility regulations at R645–300–100 through R645–300–132.300, corresponding to 30 CFR 773.7 through 773.14. These Federal regulations have been revised as a result of OSM's Ownership and Control rule changes. Utah was notified of the need to revise these provisions by letter dated October 2, 2009 (Administrative Record No. UT–1226). We are currently processing Utah's proposed Ownership and Control rule changes under SATS No. UT–049–FOR. That amendment package can be found in Docket No. OSM–2012–0015.

Because Utah has formally proposed revisions to address the identified problems with the referenced provisions, we have found the proposed changes to R645–300–133 to be no less effective than the Federal program.

R645–301–115, *Status of unsuitability claims, operations within 300 feet of an occupied dwelling or 100 feet of a public road.* Utah proposes editorial changes to adopt language more similar to its Federal counterpart. Reference changes were necessary due to other revisions and recodifications. All references correspond to references made in 30 CFR and are appropriate.

R645–301–411, *Environmental description.* Utah proposed to add a reference to its VER determination rule at R645–103–231. This is the appropriate reference.

Because these proposed rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the corresponding Federal regulations and approve them. Utah has now satisfied all required rule changes identified in our February 1, 2008, and September 19, 2000, letters.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. UT–1225;

Regulations.gov Document ID OSM–2010–0012–0001), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Utah program (Administrative Record No. UT–1227). We did not receive any responses to our request.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Utah proposed to make in this amendment pertains to air or water quality standards. Therefore, we did not ask EPA to concur with the amendment. Under 30 CFR 732.17(h)(11)(i), we are required to solicit and publicly disclose EPA comments. On September 19, 2011, we requested EPA comments on this amendment (Administrative record No. UT–1229). The EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On September 3, 2010, we requested ACHP comments on Utah's amendment (Administrative Record No. UT–1227). On September 19, 2011, we requested SHPO comments on Utah's amendment (Administrative Record No. UT–1228). Neither the ACHP nor the SHPO responded to our request.

V. OSM's Decision

Based on the above findings, we approve Utah's August 9, 2010, amendment.

We approve the rules as proposed by Utah with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 944, which codify decisions concerning the Utah program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

Effect of OSM's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Utah program, we will recognize only the statutes, regulations and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Utah to enforce only approved provisions.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 CFR U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq.*).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 944 Intergovernmental relations, Surface mining, Underground mining.

Dated: July 19, 2012.

Allen D. Klein,

Regional Director, Western Region.

For the reasons set out in the preamble, 30 CFR part 944 is amended as set forth below:

PART 944—UTAH

■ 1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 944.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 944.15 Approval of Utah regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/Description
*	*	* * * * *
August 9, 2010	February 12, 2013	R645–100–200 Definition of Valid Existing Rights; R645–103–221; R645–103–223; R645–103–224; R645–103–225; R645–103–230 through –240; 645–201–328; 645–201–342; 645–300–133; 645–301–115; 645–301–411

[FR Doc. 2013–03054 Filed 2–11–13; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG–2012–0159]

RIN 1625–AA01

Anchorages; Captain of the Port Puget Sound Zone, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule modifies the description of four general anchorages in Puget Sound and decreases the size of five general anchorage areas. These administrative changes clarify for the public the boundaries and requirements of anchorages. This ensures good order and predictability within the anchorages of the Captain of the Port (COTP) Puget Sound zone.

DATES: This rule is effective March 14, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0159]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Mark Ashley, Director Vessel Traffic Service Puget Sound, Waterways Management Division, Sector Puget Sound, Coast Guard; telephone 206–217–6046, email *Mark.E.Ashley@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: This rule modifies the description of four general anchorages in Puget Sound, decreases the size of five general anchorage areas, incorporates 33 CFR 110.229 into 33 CFR 110.230, and renames 33 CFR 110.230.

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard published a notice of proposed rulemaking (NPRM) on October 2, 2012, in the **Federal Register** (77 FR 60081). The Coast Guard received no public comments in the

docket and no requests for public meetings.

B. Basis and Purpose

The legal basis for this rule is: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define anchorage grounds. The 1976 Puget Sound Area Anchorages rulemaking defined 11 general and explosive anchorages within the greater Puget Sound area. These areas are described using geographic points of land and bearings and ranges as the boundaries. This rule updates existing anchorage descriptions using points of latitude and longitude, which, with the advent of Global Positioning System (GPS), is more practical and accurate. Also, changes to shore side infrastructure, safety and security zones, and environmentally sensitive areas made some anchorage boundaries impractical. This rule remedies such impracticalities by reducing the size of specified anchorages.

C. Discussion of Comments and Changes and the Final Rule

The Coast Guard received no comments in the docket for this rulemaking. We made only one change to the regulation as originally proposed, which was to replace certain text in the Commencement Bay General Anchorage with geographic coordinates. Specifically, we replaced the phrase ''to a point bearing 286°T from Hylebos Waterway Light 1 at a distance of 450 yards'' with the coordinates ''latitude 47°17′18.36″ N, longitude 122°25′04.45″ W.'' These are two equivalent ways to discuss the same location. This change is a non-substantive substitution that does not change the size or shape of the anchorage.

Other than the change above, the Coast Guard made no changes to the proposals discussed in the NPRM. This rule adopts them as proposed.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those orders. We do not expect this rule to have significant impact because it is administrative in nature and would not alter current navigational practices on the affected waterway.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this portion of Puget Sound, the Strait of Juan de Fuca, and adjoining waters. Because the changes are only administrative in nature, and will not alter current navigational practices on the affected waterway, the rule will not have significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of

Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves administrative changes to an anchorage regulation. This rule is categorically excluded from further review under paragraph 34(f) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 110

Anchorage Grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

§ 110.229 [Removed]

■ 2. Remove § 110.229.

■ 3. In § 110.230, revise the section heading and paragraph (a) to read as follows:

§ 110.230 Anchorages, Captain of the Port Puget Sound Zone, WA.

(a) *Anchorage grounds.* All coordinates are expressed in North American Datum 1983.

(1) *Freshwater Bay Emergency Anchorage.* All waters of Freshwater Bay and adjacent waters shoreward of a line beginning at Observatory Point, latitude 48°09′03″ N, longitude 123°38′12″ W; thence 000°T to latitude 48°09′36″ N, longitude 123°38′12″ W; thence 090°T to latitude 48°09′36″ N, longitude 123°33′27″ W; thence 180°T ending at Angeles Point, latitude 48°09′00″ N, longitude 123°33′27″ W.

(i) This anchorage may only be assigned to vessels experiencing an emergency that requires anchoring. Vessel emergencies include equipment failures, cargo securing, etc. Vessels requiring a customs inspection will not be allowed to anchor in this area.

(ii) [Reserved.]

(2) *Bellingham Bay Anchorages*—(i) *General Anchorage.* The waters of Bellingham Bay within a circular area with a radius of 2,000 yards, having its center at latitude 48°44′14.39″, longitude 122°32′26.62″.

(ii) *Explosives Anchorage.* The waters of Bellingham Bay within a circular area with a radius of 1,000 yards, having its center at latitude 48°42′47.39″, longitude 122°33′41.62″.

(3) *Port Townsend Anchorages.* (i) *Fair weather explosives anchorage area.* A circular area having a radius of 300 yards, whose center is at latitude 48°06′25.30″, longitude 122°43′50.60″.

(ii) *Foul weather explosives anchorage area.* A circular area having a radius of 300 yards, whose center is at latitude 48°04′4.33″, longitude 122°44′56.60″.

(4) *Holmes Harbor General Anchorage.* All waters of Holmes Harbor lying south of a line between latitude 48°05′50″ N, longitude 122°31′24″ W; thence 311°T to latitude 48°07′03″ N, longitude 122°33′31″ W.

(5) *Port Gardner General Anchorage.* All waters in a quadrilateral area bounded as follows: Beginning at latitude 47° 58′57″ N, longitude 122°14′05″ W; thence 302°T to latitude 47°59′21.5″ N, longitude 122°15′02″ W; thence 229°T to latitude 47°58′57″ N, longitude 122°15′44″ W; thence 122°T to latitude 47°58′32.5″ N, longitude 122°14′47″ W; thence 048°T to point of origin.

(6) *Thorndike Bay Emergency Explosives Anchorage.* All waters in a quadrilateral area bounded as follows: Beginning at latitude 47°47′59″ N, longitude 122°43′30″ W; thence 270°T to latitude 47°47′59″ N, longitude 122°44′30″ W; thence 180°T to latitude 47°47′30″ N, longitude 122°44′30″ W; thence 090°T to latitude 47°7′30″ N, longitude 122°43′30″ W, thence 000°T to point of origin.

(7) *Elliott Bay Anchorages*—(i) *Smith Cove West General Anchorage.* All waters inside the area beginning at latitude 47°38′20.44″ N, longitude 122°24′48.56″ W; thence 207T to latitude 47°37′51.6″ N, longitude 122°25′10.5″ W; thence 124°T to latitude 47°36′56.2″ N, longitude 122°23′07″ W; thence 000°T to latitude 47°37′59.5″ N, longitude 122°23′07″ W; thence northwest along the shoreline to the point of origin.

(ii) *Smith Cove East General Anchorage.* All waters inside the area beginning at latitude 47°37′36.2″ N, longitude 122°22′43″ W; thence 180°T to latitude 47°36′56.2″ N, longitude 122°22′43″ W; thence 090°T to latitude 47°36′56.2″ N, longitude 122°21′22.5″ W, thence northwest along the shoreline to the point of origin.

(iii) *Elliott Bay East General Anchorage.* All waters inside the area beginning at latitude 47°35′25.8″ N, longitude 122°20′45.5″ W; thence 000°T to latitude 47°35′55.85″ N, longitude 122°20′45.5″ W; thence 270°T to latitude 47°35′55.85″ N, longitude 122°21′30″ W; thence 180°T to latitude 47°35′19.2″ N, longitude 122°21′30″ W; thence east along the shoreline to the point of origin.

(iv) *Elliott Bay West General Anchorage.* All waters inside the area beginning at latitude 47°35′30″ N, longitude 122°21′41″ W, thence 000°T to latitude 47°35′45.5″ N, longitude 122°21′41″ W; thence 336°T to latitude 47°35′55.85″ N, longitude 122°21′48.5″ W; thence 270°T to latitude 47°35′55.85″ N, longitude 122°23′16.46″ W, thence 180°T to Duwamish Head thence southeast following the shoreline to latitude 47°35′30″ N, longitude 122°22′54.5″ W; thence 090°T to the point of origin.

(8) *Yukon Harbor General Anchorage.* All waters inside the area beginning at latitude 47°33′54.66″ N, longitude

122°31′54.68″ W; thence 106°T to latitude 47°33′23″ N, longitude 122°29′05″ W; thence 180°T to latitude 47°32′39.5″ N, longitude 122°29′05″ W; thence south along the eastern shoreline of Blake Island to latitude 47°31′48″ N, longitude 122°29′21″ W; thence 250°T to latitude 47°31′20.5″ N, longitude 122°31′10″ W; thence west and north along the Kitsap Peninsula shoreline to the point of origin.

(9) *Cherry Point General Anchorage.* The waters within a circular area with a radius of 1600 yards, having its center at latitude 48°48′29.39″ N, longitude 122°46'04.66'' W.

(10) *Anacortes General Anchorages.* (i) *Anacortes East (ANE) Anchorage.* The waters within a circular area with a radius of 600 yards, having its center at 48°31′27″ N., 122°33′45″ W.

(ii) *Anacortes Center (ANC) Anchorage.* The waters within a circular area with a radius of 600 yards, having its center at 48°30′54″ N, 122°34′06″ W.

(iii) *Anacortes West (ANW) Anchorage.* The waters within a circular area with a radius of 600 yards, having its center at 48°31′09″ N, 122°34′55″ W.

(11) *Cap Sante Tug and Barge General Anchorage.* The Cap Sante Tug and Barge General Anchorage includes all waters enclosed by a line connecting the following points: 48°31′16″ N, 122°36′00″ W, which is approximately the northeast tip of Cap Sante; then southeast to 48°30′53″ N, 122°35′28″ W; then west southwest to 48°30′45″ N, 122°35′52″ W, approximately the south tip of Cap Sante; then north along the shoreline to the point of origin.

(12) *Hat Island Tug and Barge General Anchorage.* The Hat Island Tug and Barge General Anchorage includes all waters enclosed by a line connecting the following points: 48°31′19″ N, 122°33′04″ W, near the west side of Hat Island; then southwest to 48°30′37″ N, 122°33′38″ W; then east to 48°30′37″ N, 122°32′00″ W; then northwest to the point of origin.

(13) *Commencement Bay General Anchorage.* A quadrilateral area bounded as follows: Beginning at latitude 47°17′36.36″ N, longitude 122°26′04.45″ W; thence due south to latitude 47°17′18.36″ N, longitude 122°26′04.45″ W; thence due east to latitude 47° 17′18.36″ N, longitude 122°25′04.45″ W; thence due north to latitude 47°17′32.36″ N, longitude 122°25′04.45″ W; thence west northwest to the point of origin.

(14) *Non-anchorage area Port Angeles Harbor.* Beginning at a point on the shore at latitude 48°07′03.83″ N, longitude 123°24′20.67″ W; thence to latitude 48°07′38.43″ N, longitude 123°24′04.67″ W; thence to latitude 48°07′36.03″ N, longitude 123°23′50.67″ W; thence to a point on the shoreline at latitude 48°06′56.73″ N, longitude 123°24′08.67″ W.

(i) No vessel may anchor in this non-anchorage area at any time.

(ii) Dragging, seining, fishing, or other activities which may foul underwater installations within this non-anchorage area are prohibited.

(iii) Vessels may transit this non-anchorage area, but must proceed by the most direct route and without unnecessary delay.

Note to paragraph (a)(14): The city of Port Angeles will mark this area with signs on the shoreline visible (during normal daylight) 1 mile to seaward reading, ''Do not Anchor in This Area.''

* * * * *

Dated: January 12, 2013.

K.A. Taylor,

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

[FR Doc. 2013–03121 Filed 2–11–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0031]

Drawbridge Operating Regulations; Gulf Intracoastal Waterway, Belle Chasse, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice for temporary deviation from regulation; change of effective period.

SUMMARY: The Coast Guard is modifying the effective date of a published temporary deviation from the operating schedule that governs the Louisiana State Route 23 (LA 23) vertical lift span bridge, also known as the Judge Perez Bridge, across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Plaquemines Parish, Louisiana. The modification of the effective period is necessary to further minimize the effects on navigation caused by the temporary deviation. The deviation is necessary to complete scheduled repairs necessitated by a bridge allision. This deviation allows the bridge to remain closed to navigation for eight consecutive days starting February 23, 2013, in order to perform scheduled maintenance.

DATES: This deviation amends the deviation published at 78 FR 6208 on January 30, 2013, and establishes the effective period of the deviation as being from 6 a.m. on Saturday, February 23, 2013, until 6 a.m. on Sunday, March 3, 2013.

ADDRESSES: The docket for this notice, USCG–2013–0042, is available online at *www.regulations.gov* by typing in the docket number in the ''SEARCH'' box and clicking ''SEARCH.'' Click on Open Docket Folder on the line associated with this notice. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David Frank, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *David.m.frank@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On January 30, 2013, the Coast published a notice of temporary deviation from regulation in the **Federal Register** (78 FR 6208–6209). C.E.C., Inc, on behalf of the Louisiana Department of Transportation and Development (LDOTD) has requested a temporary deviation in order to perform maintenance on the State Route 23 (LA 23) vertical lift span bridge, also known as the Judge Perez Bridge, across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Plaquemines Parish, Louisiana. Now, C.E.C, on behalf of LDOTD has requested to adjust the dates of the impending closure forward one day to better serve the general public with the proposed closure. The modification of the schedule has been vetted with waterway users and no objections were received with regards to the proposed change in schedule. This modified deviation will still allow the bridge to remain closed to navigation for eight consecutive days in order to perform scheduled maintenance, but the start date is now February 23, 2013, and the end date is now March 3, 2013.

Notices of the deviation schedule will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This

deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 4, 2013.

David M. Frank,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2013–03123 Filed 2–11–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Subtitle A

[Docket ID ED–2012–OII–0013]

RIN 1855–AA08

Final Priorities, Requirements, Definitions, and Selection Criteria—Supporting Effective Educator Development [CFDA Number: 84.367D.]

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Final priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Deputy Secretary for Innovation and Improvement announces priorities, requirements, definitions, and selection criteria under the Supporting Effective Educator Development (SEED) program. The Assistant Deputy Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions fiscal year (FY) 2013 and later years. We take this action to help national not-for-profit organizations build evidence on how best to recruit, train, and support effective teachers and school leaders; recruit and prepare effective science, technology, engineering, and mathematics teachers; and invest in efforts that increase student achievement by improving teacher and principal effectiveness.

DATES: These priorities, requirements, definitions, and selection criteria are effective March 14, 2013.

FOR FURTHER INFORMATION CONTACT: Richard Wilson, U.S. Department of Education, 400 Maryland Avenue SW., room 4W125, Washington, DC 20202. Telephone: (202) 453–6709 or by email: *SEED@ed.gov.*

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The SEED program provides funding for grants to national not-for-profit organizations for projects that support teacher or principal training or professional enhancement activities and are supported by at least moderate evidence of effectiveness (as defined in this notice).

Program Authority: Department of Education Appropriations Act, 2012 (Pub. L. 112–74, Title III, Division F).

We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the **Federal Register** on September 4, 2012 (77 FR 53819). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

These final priorities, requirements, definitions, and selection criteria contain some changes from the NPP. We fully explain these changes in the *Analysis of Comments and Changes* section in this notice.

Public Comment: In response to our invitation in the NPP, 18 parties submitted comments on the proposed priorities, requirements, definitions, and selection criteria.

Analysis of Comments and Changes: An analysis of the comments and any changes in the priorities, requirements, definitions, and selection criteria since publication of the NPP follows.

Eligibility

Comment: Several commenters requested that the Department alter the eligibility criteria to allow more types of entities to apply for a SEED program grant. One commenter recommended that we allow applications from large local educational agencies (LEAs) or LEAs with large numbers of students in poverty. Three commenters recommended that we allow applications from local, State, or regional not-for-profit organizations.

Discussion: We agree that other entities, including LEAs and local, State, and regional not-for-profit organizations, have expertise in preparing and supporting teachers and principals. However, the legislation that governs the SEED program allows for awards only to national not-for-profit organizations. Consequently, while eligible national not-for-profit applicants may partner with LEAs and local, State, and regional not-for-profit organizations to carry out their projects, the Department does not have the authority to award a SEED program grant to other types of entities.

Change: None.

Priorities

Comment: One commenter supported our focus on high-need students but also requested that we add a priority on recruiting, developing, and retaining educators from underrepresented backgrounds to increase teacher success.

Discussion: We agree with the commenter on the importance of recruiting and developing educators from diverse backgrounds who reflect the backgrounds of their students. We have made this commitment explicit in option (b) of priority 4, Promoting Science, Technology, Engineering, and Mathematics (STEM) Education, which requires applicants to demonstrate how they will increase the number of individuals from groups traditionally underrepresented in STEM. We also believe that priorities 1, 2, 3, and 5 provide applicants with the flexibility to identify strategies, including those that focus on recruiting and supporting teachers and principals from underrepresented backgrounds, to improve teacher and principal effectiveness for the targeted students and schools. For these reasons, we decline to add another priority specifically focused on recruiting, developing, and retaining teachers and principals from underrepresented groups.

Change: None.

Comment: Several commenters recommended that the Department identify certain priorities as absolute or competitive.

Discussion: The Department generally does not designate priorities as absolute or competitive as part of a notice of final priorities, requirements, definitions, and selection criteria in order to maintain maximum flexibility in how we use the priorities in future competitions. For each future competition, we will designate priorities as absolute or competitive in the notice inviting applications.

Change: None.

Comment: One commenter recommended that we specifically cite assessment literacy—that is, the understanding and use of assessment data—as a required competency for teachers and principals in the priorities and as one of the measures in the definitions of ''highly effective teacher'' and ''highly effective principal.'' Additionally, the commenter recommended that we require applicants to evaluate assessment literacy predominantly based on performance, including classroom observations and artifact reviews, and that we require applicants to use a minimum of three years of data in measuring student growth as an indicator of teacher effectiveness.

Discussion: While we agree that it is important for teachers and principals to understand and use data and assessment

results to improve teaching, we believe this goal is reflected in the priorities and selection criteria. For priorities 1, 2, 3, 4, and 5, applicants are required to describe how they will measure the effect of their proposed project activities on their participants and the students they serve. Further, the selection criteria require applicants to describe how their proposed projects are expected to advance and develop teacher and school leadership theory and practice such that they increase teacher and student success. Applicants must also describe how they propose to evaluate their project outcomes. We believe that assessment literacy is implicit in these priorities and selection criteria. Just as we allow maximum flexibility for applicants to design their projects by not prescribing specific strategies or curricula for the proposed teacher and principal preparation, professional development, and advanced credentialing projects, we do not think it appropriate to add or prescribe assessment literacy as a requirement.

Also, under this program, an eligible applicant is not precluded from using supplemental performance measures such as observations and artifact reviews to distinguish highly effective teachers, provided that teacher effectiveness is evaluated, in significant part, based on student growth (as defined in this notice).

Regarding the recommendation that an applicant use a minimum of three years of data to measure student growth as an indicator of teacher effectiveness, the program does not specify a time period for collecting data on student growth. However, applicants must describe how their proposed objective performance measures are clearly related to the outcomes of the project and will produce quantitative and qualitative data within the grant performance period.

Change: None.

Comment: Several commenters suggested that we provide applicants flexibility in determining how they track the effect that their participating educators have on student growth. Additionally, they requested that we clarify whether applicants are required to create new teacher evaluation systems to track their participants' effectiveness. One commenter also asked the Department to clarify who would determine whether the evaluation systems are fair.

Discussion: While several of the priorities require that applicants track their participants' effectiveness based in part on student growth, none of them requires applicants to create new evaluation systems. Applicants may choose which evaluation system to use, so long as it meets the requirements discussed in the relevant priority. Additionally, applicants must describe how the system they propose to use meets the requirements of the priority, including how the system is fair.

Change: None.

Comment: One commenter suggested using indicators other than student growth to determine teacher effectiveness so that student test scores are not the primary determinant of teacher effectiveness. Additionally, the commenter requested that we require that teachers be involved in deciding which indicators are used in the teacher evaluation systems utilized by applicants.

Discussion: The Department agrees that the effectiveness of teachers and principals cannot be evaluated by test scores alone. Priorities 2, 3, 4, and 5 specifically state that, while based in significant part on student growth, effectiveness must be determined ''through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness.'' The definition of ''student growth'' in this notice also states that an applicant may include other measures that are rigorous and comparable across classrooms. Moreover, to meet the requirement that their teacher and principal evaluations are fair and transparent, applicants must demonstrate how key stakeholders such as teachers and principals were included in the evaluation development. Therefore, we decline to make these recommended changes.

Change: None.

Comment: One commenter recommended that we consider the approaches of other high-performing countries that emphasize teacher recruitment, training, and support.

Discussion: The Department believes that the priorities proposed in the NPP align with the best practices in teacher recruitment and development. Additionally, applicants may propose strategies that are used in other countries so long as they demonstrate that those strategies will have a positive effect on their target populations.

Change: None.

Priority 1

Comment: One commenter suggested that we expand priority 1 to include other types of school leaders, such as charter school executives.

Discussion: The legislation governing the SEED program allows funding only for projects focused on recruiting, training, and supporting effective teachers and principals. The Department does not have the authority to expand the priority to include other school leaders. However, participating educators may include public charter school leaders who serve in principal roles.

Change: None.

Comment: One commenter recommended that we separate priority 1 into two priorities, one that focuses on the needs of teachers and one that focuses on the needs of principals.

Discussion: The Department recognizes that the preparation and development needs of principals are distinct from the needs of teachers. However, we believe the priority as written clearly permits applicants to focus their activities on teachers, principals, or both. Also, we believe that separate priorities for teachers and principals may inadvertently discourage prospective applicants from proposing projects that include both teachers and principals. Therefore, we decline to make this change.

Change: None.

Priority 2

Comment: One commenter requested that the Department clarify whether applicants must work exclusively with schools with high concentrations of high-need students or if they may pair master teachers from schools with lower concentrations of high-need students with teachers from schools with high concentrations of such students.

Discussion: The intent of the priority is to improve student achievement by increasing the number of highly effective teachers in schools with high concentrations of high-need students. While applicants must demonstrate that the primary focus of their proposed activities is on improving student achievement and teacher effectiveness in schools with high concentrations of high-need students, there is no requirement that all teachers involved in a project be from such schools.

Change: None.

Comment: One commenter suggested that, to increase student literacy skills, we broaden this priority to allow for professional development efforts to improve the writing instruction skills of all teachers, not just teachers of English language arts.

Discussion: The Department agrees that, to improve student literacy and writing skills, it is important for all teachers to know how to teach writing in their subject areas. We are revising the priority to support projects that provide professional development

focused on writing for teachers of all subject areas.

Change: We have removed the requirement that the professional development must be targeted only to teachers of English language arts. The revised priority allows applicants to propose projects that provide professional development for all teachers to develop and enhance their teaching of writing to improve student literacy and writing skills.

Priority 3

Comment: One commenter supported the inclusion of a priority focused on advanced credentialing for teachers and principals. The commenter suggested that we clarify that the priority does not require all teachers seeking an advanced certification also to take on a career ladder position.

Discussion: The Department agrees that requiring all teachers who receive an advanced credential to take career ladder positions would be too limiting to applicants. We did not intend to limit potential candidates to those who have career ladder positions available to them. Rather, we intended to indicate that those teachers who complete an advanced credential program should be qualified to take on available career ladder positions.

Change: We clarified the language of the priority to indicate that completion of an advanced credential program may, but is not required to, lead to a career ladder position.

Comment: One commenter recommended that we add to the priority a requirement that applicants submit a rigorous, standards-based framework for identifying teacher leaders and that such a framework be built upon the applicant's record of recognizing and developing accomplished teachers.

Discussion: We believe the priority already addresses the concerns raised by the commenter. For example, the priority requires an applicant to propose a rigorous, competitive selection process for determining which teachers or principals participate in the applicant's proposed project. Additionally, the priority requires applicants to focus their proposed projects on encouraging and supporting teachers or principals who seek a standards-based advanced certificate or credential and who would serve as models, mentors, or coaches to other teachers or principals. Further, applicants are not precluded from including in their proposals a history of, and a project framework based on, their previous experience of developing teachers. Thus, we decline to make this change.

Change: None.

Priority 4

Comment: One commenter supported the use of a priority focused on the STEM subject areas but suggested that we change the priority to specifically allow applicants to provide professional development to teachers so that they can become content-area coaches.

Discussion: We believe that there are a number of professional development approaches that could accomplish the program goal of increasing the number of highly effective teachers or principals and that this goal would not be served by highlighting one particular approach over others. The priority does not prohibit an applicant from proposing activities designed to develop teachers to be content-area coaches, so long as the applicant indicates how the activities would increase the number of highly effective teachers for the targeted schools and districts.

Change: None.

Comment: One commenter requested that we define STEM subjects under this priority and that the definition specifically include computer science.

Discussion: We decline to limit STEM subjects under this priority, in order to give applicants the flexibility to address the subjects of greatest interest and demand in their districts and schools. Applicants are not precluded from targeting or including computer science as a subject on which to focus to meet this priority.

Change: None.

Priority 5

Comment: None.

Discussion: Because the term ''core'' has been defined and used in other contexts to describe academic subjects for Department programs, to avoid confusion we decided not to use that term in the priority.

Change: We removed all references to ''core'' when describing academic subjects in the title and content of the priority.

Comment: One commenter requested that we add computer science to the list of possible academic subjects covered under this priority.

Discussion: As stated previously, computer science could be specifically addressed through priority 4. We decline to add computer science to the list of academic subjects in this priority to avoid duplicating subject areas that are included in other priorities. Moreover, applicants addressing this priority are not precluded from including computer science within the context of their proposed academic subjects.

Change: None.

Priority 6

Comment: One commenter recommended that we eliminate this priority because it does not focus on educational outcomes.

Discussion: We agree that the main intent of the SEED program is to improve student outcomes. However, another important focus is finding more efficient ways of achieving the same educational outcomes.

Change: None.

Definitions

Comment: One commenter suggested that we broaden the definition of ''national not-for-profit'' to include local and regional entities whose activities align with national education priorities and who will disseminate their projects' findings nationally.

Discussion: While we know there are a number of high-performing regional and local not-for-profit entities that align their activities with national education priorities, the intent of this program is to support entities that have demonstrated their capacity to effectively respond to education priorities on a national scale. The commenter's suggested change would include those entities that target their activities to a more limited geographic area and therefore may lack the capacity to scale up a project to a national level. We note that these regionally and locally based entities may serve as partners to, or recipients of services proposed by, national not-for-profit entities that apply for a grant under this program. However, the legislation that governs the SEED program allows for awards only to national not-for-profit organizations.

Change: None.

Comment: One commenter requested that the Department clarify what an affiliate is for the purpose of the definition of a ''national not-for-profit.''

Discussion: We chose not to define ''affiliate'' because of the many and varying types of affiliations. Instead we are allowing flexibility for applicants to describe the specific roles of their affiliates in providing the applicants' services in the States in which those affiliates are located.

Change: None.

Comment: One commenter asked us to clarify whether the mastery of 1.5 grade levels in an academic year is a minimum threshold of student growth that teachers and principals must reach to be considered a highly effective teacher or highly effective principal.

Discussion: The reference to 1.5 grade levels in an academic year in the

definition of ''highly effective teacher'' is an example of student growth; the definition does not specify the measure of student growth that eligible applicants must use. Further, the definition does not require that an applicant use the same measure of growth for all teachers. However, we urge applicants to ensure that any rate used enables the applicant to distinguish teachers who are highly effective from those who are not.

Change: None.

Comment: One commenter recommended that the Department broaden the definition of ''highly effective teacher'' because grade levels are not clear in certain subject areas.

Discussion: The Department declines to broaden this definition because we believe it is important that all teachers are held to the same high standard. We note, as discussed in the response to the previous comment, that student mastery of 1.5 grade levels in an academic year is an example of, and not a requirement for, meeting the definition of ''highly effective teacher'' and that the same student growth rates are not required for all teachers. Moreover, the definition of ''highly effective teacher'' allows for additional measures, including those based on observation-based assessments of teacher performance or evidence of leadership roles resulting in increased effectiveness of other teachers in the school or LEA. Also, the definitions of ''student achievement'' and ''student growth'' allow for other measures of achievement, as long as they are rigorous and comparable across schools.

Change: None.

Comment: One commenter suggested that the Department alter the definition of ''moderate evidence of effectiveness'' to include interventions that have not been reviewed by the What Works Clearinghouse (WWC), that demonstrate impact on a mediating variable that can be linked to student growth, or that can demonstrate impact through other methodological approaches such as a quasi-experimental design. Another commenter requested that we clarify whether the studies cited by applicants to demonstrate that their projects are supported by moderate evidence of effectiveness need to have been accepted by the WWC.

Discussion: Interventions are not required to have been part of a previously published WWC evidence review to meet the definition of ''moderate evidence of effectiveness.'' Rather, the interventions have to show a positive impact on a relevant outcome. A relevant outcome may be an outcome other than a student outcome, as long as it is the ultimate outcome of the intervention and is consistent with the goals of the SEED program. The applicant must demonstrate that an outcome other than a student outcome meets the definition of ''relevant outcome.'' Lastly, quasi-experimental designs are already included in the definition of ''moderate evidence of effectiveness'' if they meet WWC evidence standards with reservations and meet all other components of the definition of ''moderate evidence of effectiveness.''

Change: None.

Selection Criteria

Comment: One commenter indicated that it was not clear whether the selection criteria would be applied based on the number of participants served by the project.

Discussion: There is no minimum number of teachers or principals who must be served by a project. The intent is for applicants to provide a context and explanation for the number of proposed participants to be served by their projects. Reviewers will evaluate each application based on the explanation and documentation provided by the applicant against the selection criteria.

Change: None.

Comment: One commenter supported our decision to include sustainability as one of the selection criteria. This commenter also recommended that we add to the sustainability criterion a requirement that the applicant support the project's participants after the grant period.

Discussion: We agree that supporting teachers or principals beyond their initial preparation or professional development is an important aspect of improving the teacher and principal workforce. We believe that the sustainability criterion sufficiently encourages applicants to support their project participants beyond the grant period.

Change: None.

Final Priorities:

Priority 1: Teacher or Principal Recruitment, Selection, and Preparation.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice) or highly effective principals (as defined in this notice) by recruiting, selecting, and preparing talented individuals to work in schools with high concentrations of high-need students (as defined in this notice). Projects must include activities that focus on creating or expanding high-performing teacher preparation programs, principal preparation programs, or both. Activities may include but are not limited to expanding clinical experiences, redesigning and implementing program coursework to align with State standards and district requirements for P–12 teachers, providing induction and other support for program participants in their classrooms and schools, and developing strategies for tracking the effect program graduates have on the achievement of their students or the performance of their schools.

In addition, an applicant must propose a plan demonstrating a rigorous, competitive selection process to determine which aspiring teachers or principals participate in the applicant's proposed activities.

Priority 2: Professional Development for Teachers to Improve their Writing Instruction.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects designed to improve student literacy and writing skills by creating or expanding practices and strategies that increase the number of highly effective teachers (as defined in this notice) by improving their knowledge, understanding, and teaching of writing in the context of their subject areas. Projects will focus on improving writing instruction to increase student achievement (as defined in this notice) by providing high-quality professional development to teachers in schools with high concentrations of high-need students (as defined in this notice).

Applicants are required to (i) describe the need, in the districts proposed to be served, for teacher professional development to improve student literacy and writing skills and (ii) demonstrate alignment of their proposed projects with State standards.

In addition, applicants must describe how they plan to measure the impact the professional development has on the effectiveness of teachers served by their projects. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Priority 3: Advanced Certification and Advanced Credentialing.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will create or expand practices and strategies based on advanced certification or advanced credentialing that increase the number of highly effective teachers (as defined in this notice), highly effective principals (as defined in this notice), or both, who work in schools with high concentrations of high-need students (as defined in this notice).

Applicants are required to focus their proposed projects on encouraging and supporting teachers, principals, or both, who seek a nationally recognized, standards-based advanced certificate or advanced credential through high-quality professional enhancement projects designed to improve teaching and learning for teachers who may take on career ladder positions (as defined in this notice), principals, or both who would serve as models, mentors, and coaches for other teachers, principals, or both working in schools with high concentrations of high-need students (as defined in this notice).

In addition, the effectiveness of teachers or principals who receive advanced certification or credentialing must be determined through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Finally, an applicant must propose a plan demonstrating a rigorous, competitive selection process to determine which teachers or principals participate in the applicant's proposed activities.

Priority 4: Promoting Science, Technology, Engineering, and Mathematics (STEM) Education.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that address one or both of the following priority areas:

(a) Increasing the opportunities for high-quality preparation of, or professional development for, teachers of STEM subjects.

(b) Increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, who are teachers of STEM subjects and have increased opportunities for high-quality preparation or professional development.

In addition, applicants must describe how they plan to measure the impact the proposed project activities have on teacher effectiveness. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Priority 5: Professional Development for Teachers of Academic Subjects.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice) by providing professional development opportunities to teachers, including special education teachers, in schools with high concentrations of high-need students (as defined in this notice). Projects must focus on increasing student achievement (as defined in this notice) in academic subjects by providing high-quality professional development to teachers. The academic subjects that may be addressed through professional development under this priority include foreign languages, civics and government, economics, arts, history, physical education, geography, environmental education, and financial literacy.

Applicants are required to describe the need of the proposed districts to be served for teacher professional development in the selected high-need academic subjects and to demonstrate alignment of the proposed projects with State standards.

In addition, applicants must describe how they plan to measure the impact the professional development has on teacher effectiveness. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Priority 6: Improving Efficiency (Cost-Effectiveness).

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that will identify strategies for providing cost-effective, high-quality services at the State, regional, or local level by making better use of available resources. Such projects may include innovative and sustainable uses of technology, modification of school schedules and teacher compensation systems, use of open educational resources (as defined in this notice), or other strategies.

Priority 7: Supporting Practices and Strategies for Which There Is Strong Evidence of Effectiveness.

The Assistant Deputy Secretary for Innovation and Improvement establishes a priority that funds projects that are supported by strong evidence of effectiveness (as defined in this notice).

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements

The Assistant Deputy Secretary for Innovation and Improvement establishes the following requirements for the SEED program. We may apply these requirements in any year in which this program is in effect.

Eligible applicants: To be eligible for a SEED program grant, an entity must be a national not-for-profit organization (as defined in this notice). Each applicant must provide in its application documentation that it is a national not-for-profit organization (as defined in this notice).

Evidence of effectiveness: To be eligible for funding, an applicant must demonstrate that its proposed project is supported by at least moderate evidence of effectiveness (as defined in this notice).

Each applicant must provide in its application documentation that its proposed project is supported by at least moderate evidence of effectiveness. An

applicant that responds to the Supporting Practices and Strategies for Which There Is Strong Evidence of Effectiveness priority also must provide documentation that its proposed project is supported by strong evidence of effectiveness (as defined in this notice). An applicant must ensure that all evidence is available to the Department from publically available sources and provide links or references to, or copies of, the evidence in the application. If the Department determines that an applicant has provided insufficient evidence that its proposed project meets the definition of ''moderate evidence of effectiveness'' or ''strong evidence of effectiveness,'' the applicant will not have an opportunity to provide additional evidence to support its application.

Evaluations: An applicant receiving funds under this program must comply with the requirements of any evaluation of the program conducted by the Department. In addition, an applicant receiving funds under this program must make broadly available through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, in print or electronically, the results of any evaluations it conducts of its funded activities.

Final Definitions

The Assistant Deputy Secretary for Innovation and Improvement establishes the following definitions for the SEED program. We may apply one or more of these definitions in any year in which this program is in effect.

Career ladder positions means school-based instructional leadership positions designed to improve instructional practice, which teachers may voluntarily accept, such as positions described as master teacher, mentor teacher, demonstration or model teacher, or instructional coach, and for which teachers are selected based on criteria that are predictive of the ability to lead other teachers.

High-need students means students at risk of educational failure, such as students who are living in poverty, who are English learners, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school or college before receiving, respectively, a regular high school diploma or a college degree or certificate, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities.

Highly effective principal means a principal whose students, overall and for each subgroup as described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act, as amended (ESEA) (i.e., economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency), achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that principal effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, support for ensuring effective instruction across subject areas for a well-rounded education, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

Highly effective teacher means a teacher whose students achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that teacher effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional development learning communities) that increase effectiveness of other teachers in the school or local educational agency (LEA).

Large sample means a sample of 350 or more students (or other single analysis units) who were randomly assigned to a treatment or control group, or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units) and that were randomly assigned to a treatment or control group.

Moderate evidence of effectiveness means one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the What Works Clearinghouse (WWC) Evidence Standards without reservations; [1] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(b) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the WWC Evidence Standards with reservations; [2] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). (Note: Multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.)

Multi-site sample means more than one site, where site can be defined as an LEA, locality, or State.

National level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

National not-for-profit organization means an entity that meets the definition of ''nonprofit'' under 34 CFR 77.1(c) and is of national scope, meaning that the entity provides services in multiple States to a significant number or percentage of recipients and is supported by staff or affiliates in multiple States.

Open educational resources means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that

[1] *See* WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*.

[2] *See* WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*.

permits their free use or repurposing by others.

Relevant outcome means the student outcome or outcomes (or the ultimate outcome if not related to students) that the proposed project is designed to improve, consistent with the specific goals of a program.

Strong evidence of effectiveness means that one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the WWC Evidence Standards without reservations;[3] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). (**Note:** multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.)

(b) There are at least two studies of the effectiveness of the process, product, strategy, or practice being proposed, each of which: Meets the WWC Evidence Standards with reservations;[4] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the studies or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice).

Student achievement means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: Alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. An applicant may also include other measures that are rigorous and comparable across classrooms.

Final Selection Criteria:

The Assistant Deputy Secretary for Innovation and Improvement establishes the following selection criteria for evaluating an application under the SEED program. We may apply one or more of these criteria, as well as other criteria or factors established in 34 CFR 75.210, in any year in which this program is in effect. In the notice inviting applications or the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) *Significance.* The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers:

(1) The significance of the proposed project on a national level (as defined in this notice).

(2) The potential contribution of the proposed project to the development and advancement of teacher and school leadership theory, knowledge, and practices.

(3) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of the Project Design and Services.* The Secretary considers the quality of the design and services of the proposed project. In determining the quality of the design and services of the proposed project, the Secretary considers:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, aligned, and measurable.

(2) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(3) The extent to which the training or professional development services to be provided by the proposed project will be of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(c) *Quality of the Management Plan and Personnel.* The Secretary considers the quality of the management plan for the proposed project and of the personnel who will carry out the proposed project. In determining the quality of the management plan and the project personnel, the Secretary considers:

(1) The qualifications, including relevant training and experience, of the project director, key project personnel, and project consultants or subcontractors.

(2) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(3) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(4) The extent to which the proposed management plan includes sufficient and reasonable resources to effectively carry out the proposed project, including the project evaluation.

(d) *Sustainability.* The Secretary considers the adequacy of resources to continue the proposed project after the grant period ends. In determining the adequacy of resources and the potential for utility of the proposed project's activities and products by other organizations, the Secretary considers:

(1) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(2) The extent to which the proposed project is likely to yield findings and products (such as information, materials, processes, or techniques) that may be used by other agencies and organizations.

(3) The extent to which the applicant will disseminate information about results and outcomes of the proposed project in ways that will enable others, including the public, to use the information or strategies.

(e) *Quality of the Project Evaluation.* The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and

[3] *See* WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[4] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the evaluation includes the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data.

(3) The extent to which the evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(4) The extent to which the proposed project plan includes sufficient resources to carry out the project evaluation effectively.

Note: We encourage applicants to review the following technical assistance resources on evaluation: (1) WWC Procedures and Standards Handbook: *http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1;* and (2) IES/NCEE Technical Methods papers: *http://ies.ed.gov/ncee/tech_methods/.*

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register.**

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Summary of Costs and Benefits

The costs of carrying out activities would be paid for with program funds and with matching funds (if any) provided by private-sector partners. Thus, the costs of implementation would not be a burden for any eligible applicants, including small entities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 7, 2013.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2013–03210 Filed 2–11–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2007–0089; FRL–9779–3]

RIN 2060–AO17

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of a Group of Four Hydrofluoropolyethers (HFPEs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action revises the definition of volatile organic compounds (VOCs) under the Clean Air Act (CAA). This revision adds four chemical compounds to the list of compounds excluded from the definition of VOC on the basis that each of these compounds makes a negligible contribution to tropospheric ozone formation. These compounds consist of four hydrofluoropolyethers (HFPEs) which are identified as HCF_2OCF_2H (also known as HFE–134), $HCF_2OCF_2OCF_2H$ (also known as HFE–236cal2), $HCF_2OCF_2CF_2OCF_2H$ (also known as HFE–338pcc13), and $HCF_2OCF_2OCF_2CF_2OCF_2H$ (also known as H-Galden 1040X or H-Galden ZT 130 (or 150 or 180)). If an entity uses or produces any of these four HFPE compounds (these being in the family of products known by the trade name H-Galden) and is subject to the EPA regulations limiting the use of VOC in a product, limiting the VOC emissions from a facility, or otherwise controlling the use of VOC for purposes related to attaining the ozone national ambient air quality standards (NAAQS), then the compound will not be counted as a VOC in determining whether these regulatory obligations have been met. This action may also affect whether any of these compounds is considered a VOC for state regulatory purposes, depending on whether the state relies on the EPA's definition of VOC. In addition, the EPA is making certain technical corrections to the current list of exempt compounds.

DATES: The final rule is effective on March 14, 2013.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2007–0089. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., confidential business information (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 Docket ID No. EPA–HQ–OAR–2007–0089, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, Northwest, 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 and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: David Sanders, Office of Air Quality Planning and Standards, Air Quality Policy Division, State and Local Programs Group, Mail Code (C539–01), Environmental Protection Agency, Research Triangle Park, N.C. 27711; telephone (919) 541–3356 or fax (919) 541–0824; and email address: *sanders.dave@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final rule include, but are not necessarily limited to, states (typically state air pollution control agencies) that control VOCs, and industries listed in the following table involved in the manufacture or use of fire suppressants and specialized refrigerants in secondary loop refrigeration systems for heat transfer. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that the EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. This action has no substantial direct effects on industry because it does not impose any new mandates on these entities, but, to the contrary, removes these four HFPEs from the regulatory definition of VOC.

This final rule is applicable to all manufacturers, distributors and users of these chemical compounds as identified in Table 1.

TABLE 1—POTENTIALLY AFFECTED REGULATED CATEGORIES AND ENTITIES

Industry group	SIC [a]	NAICS [b]
Fire Suppression	2899	325998, 423990
Refrigerants ..	2869, 3585 238220, 336111	

[a] Standard Industrial Classification.
[b] North American Industry Classification System.

B. How is this preamble organized?

The information presented in this preamble is organized as follows:

I. General Information
- A. Does this action apply to me?
- B. How is this preamble organized?

II. Proposed Action
- A. The EPA's VOC Exemption Policy
- B. Petition to List the Following Compounds as Exempt: HCF_2OCF_2H (HFE 134), $HCF_2OCF_2OCF_2H$ (HFE–236cal2), $HCF_2OCF_2CF_2OCF_2H$ (HFE–338pcc13), and $HCF_2OCF_2OCF_2CF_2OCF_2H$ (H-Galden 1040X and H-Galden ZT 130 (or 150 or 180))
- C. Likelihood of Risk to Human Health or the Environment
- D. Conclusion

III. Public Comments

IV. Final Action

V. Statutory and Executive Orders Reviews
- A. Executive Order 12866: Regulatory Planning 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
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act
- L. Judicial Review

II. Proposed Action

A. The EPA's VOC Exemption Policy

Tropospheric ozone, commonly known as smog, is formed when VOCs and nitrogen oxides (NO_X) react in the atmosphere in the presence of sunlight. Because of the harmful health effects of ozone, the EPA and state governments limit the amount of VOCs that can be released into the atmosphere. VOCs are those organic compounds of carbon which form ozone through atmospheric photochemical reactions. Different VOCs have different levels of reactivity. That is, they do not react to form ozone at the same speed or do not form ozone to the same extent. Some VOCs react slowly or form less ozone; therefore, changes in their emissions have limited effects on local or regional ozone pollution episodes. It has been the EPA's policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory VOC definition so as to focus VOC control efforts on compounds that do significantly increase ozone concentrations. The EPA also believes that exempting such compounds creates an incentive for industry to use negligibly reactive compounds in place of more highly reactive compounds that are regulated as VOCs. The EPA lists compounds that it has determined to be negligibly reactive in its regulations as being excluded from the definition of VOC (40 CFR 51.100(s)).

The CAA requires the regulation of VOCs for various purposes. Section 302(s) of the CAA specifies that the EPA has the authority to define the meaning of ''VOC,'' and hence what compounds shall be treated as VOCs for regulatory purposes. The policy of excluding negligibly reactive compounds from the VOC definition was first set forth in the ''Recommended Policy on Control of Volatile Organic Compounds'' (42 FR 35314, July 8, 1977) and was supplemented most recently with the ''Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans'' (Interim Guidance) (70 FR 54046, September 13, 2005). The EPA uses the reactivity of ethane as the threshold for determining whether a compound has negligible reactivity. Compounds that are less reactive than, or equally reactive to, ethane under certain assumed conditions may be deemed negligibly reactive and therefore suitable for exemption from the regulatory definition of VOC. Compounds that are more reactive than ethane continue to be considered VOCs for regulatory purposes and therefore are subject to control requirements. The selection of ethane as the threshold compound was based on a series of smog chamber experiments that underlay the 1977 policy.

The EPA has used three different metrics to compare the reactivity of a specific compound to that of ethane: (i) the reaction rate constant (known as k_{OH}) with the hydroxyl radical (OH); (ii) the maximum incremental reactivity (MIR) on a reactivity per unit mass basis; and (iii) the MIR expressed on a reactivity per mole basis. Differences between these three metrics are discussed below.

The k_{OH} is the reaction rate constant of the compound with the OH radical in the air. This reaction is typically the first step in a series of chemical reactions by which a compound breaks down in the air and participates in the ozone-forming process. If this step is slow, the compound will likely not form ozone at a very fast rate. The k_{OH} values have long been used by the EPA as a metric of photochemical reactivity and ozone-forming activity, and they have been the basis for most of the EPA's previous exclusions of negligibly reactive compounds from the regulatory definition of VOC. The k_{OH} metric is inherently a molar-based comparison, i.e., it measures the rate at which molecules react.

The MIR, both by mole and by mass, is a more recently developed metric of photochemical reactivity derived from a computer-based photochemical model. This metric considers the complete ozone forming activity of a compound on a single day, not merely the first reaction step. [1]

The MIR values for compounds are typically expressed as grams of ozone formed per gram of VOC (mass basis), but may also be expressed as grams of ozone formed per mole of VOC (molar basis). For comparing the reactivities of two compounds, using the molar-based MIR values considers an equal number of molecules of the two compounds. Alternatively, using the mass-based MIR values compares an equal mass of the two compounds, which will involve different numbers of molecules, depending on the relative molecular weights. The molar-based MIR comparison is consistent with the original smog chamber experiments that underlie the original selection of ethane as the threshold compound, in that these experiments compared equal molar concentrations of individual VOCs. It is also consistent with previous reactivity determinations based on k_{OH} values, which are inherently molar-based. By contrast, the mass-based MIR comparison is more consistent with how MIR values and other reactivity metrics have been applied in reactivity-based emission limits, such as the national VOC emissions standards for aerosol coatings (40 CFR part 59 subpart E). Many other VOC regulations contain limits based upon a weight of VOC per volume of product, such as the EPA's regulations for limiting VOC emissions from architectural coatings (40 CFR part 59 subpart D). However, the fact that regulations are structured to measure VOC content by weight for ease of implementation and enforcement does not necessarily control whether VOC exemption decisions should be made on a weight basis as well.

The choice of the molar basis versus the mass basis for the ethane comparison can be significant. In some cases, a compound might be considered less reactive than ethane under the mass basis but not under the molar basis. For compounds with molecular weights higher than that of ethane, use of the mass basis results in more VOCs being classified as less reactive than ethane than use of the molar basis.

B. Petition To List the Following Compounds as Exempt: HCF_2OCF_2H (HFE 134), $HCF_2OCF_2OCF_2H$ (HFE–236cal2), $HCF_2OCF_2CF_2OCF_2H$ (HFE–338pcc13), and $HCF_2OCF_2OCF_2CF_2OCF_2H$ (H-Galden 1040X and H-Galden ZT 130 (or 150 or 180))

On February 10, 2005, Solvay Solexis, Incorporated submitted to the EPA a petition requesting that four compounds in the family of products known by the trade name H-Galden be added to the list of compounds that are considered to be negligibly reactive in the definition of VOC at 40 CFR 51.100(s). These four compounds—HCF_2OCF_2H (HFE–134), $HCF_2OCF_2OCF_2H$ (HFE–236cal2), $HCF_2OCF_2CF_2OCF_2H$ (HFE–338pcc13), and $HCF_2OCF_2OCF_2CF_2OCF_2H$ (H-Galden 1040X and H-Galden ZT 130 (or 150 or 180))—can be used in some heat transfer applications (as refrigerants) and as fire suppressants.

With respect to the photochemical reactivity of the H-Galden compounds, Solvay Solexis, Incorporated provided information on the photochemical reactivity of its chemical compounds as measured by each compound's k_{OH} rate constant. Measurements of the reaction rate of HCF_2OCF_2H (HFE–134) with OH have been estimated at 298 K to be 2.3 $\times 10^{-15}$ (cm^3/molecule-sec). This rate constant is highly temperature

[1] Further explanation of the MIR metric can be found in: W. P. L. Carter, ''Development of Ozone Reactivity Scales for Volatile Organic Compositions,'' Journal of the Air & Waste Management Association, Vol. 44, 881–899, July 1994.

dependent and decreases at lower temperatures. The calculated reaction rates for the three additional HFPEs as submitted by Solvay Solexis are 2.4×0^{-15} (cm^3/molecule-sec) for HFE–236cal2, 4.7×0^{-15} (cm^3/molecule-sec) for HFE–338pcc13, and 4.9×0^{-15} (cm^3/molecule-sec) for H-Galden 1040X.[2] The k_{OH} values for these four HFPEs are significantly lower than the reaction rate for ethane which has a k_{OH} value of 2.4×0^{-13} (cm^3/molecule-sec) at 298 K.

The scientific information that the petitioner submitted in support of the petition has been added to the docket for this rulemaking. This docketed information includes journal articles where the rate constant values can be found. Solvay Solexis, Incorporated submitted the following articles in support of its petition: (1) ''Tropospheric Degradation Products of Novel Hydrofluoropolyethers,'' Tuazon, *Environmental Science & Technology,* University of California, Riverside, May 1997; (2) ''Hydrofluoropolyethers,'' Marchionni, Silvani, Fontana, Malinverno, Visca, *Journal of Fluorine Chemistry,* Ausimont SpA, R & D Centre, 1999; and (3) ''Toxicological Profile of Hydrofluoropolyethers,'' Malinverno, Colombo, Visca, *Regulatory Toxicology and Pharmacology,* December, 2004.

Table 2 summarizes the information provided by the petitioner regarding the photochemical reactivity of the compounds under consideration. The data submitted by the petitioner support the contention that the reactivity of these compounds, with respect to reaction with the OH radical in the atmosphere, is lower than that of ethane.

TABLE 2—SUMMARY OF REACTION RATES WITH OH (K_{OH}) REACTION RATE CONSTANT COMPARED TO ETHANE

Chemical formula	CAS Number	Name	k_{OH} (cm^3/(molecule-sec))	k_{OH} ratio relative to ethane
C_2H_6	74–84–0	Ethane	2.4×10^{-13}	1.00
HCF_2OCF_2H	1691–17–4	HFE–134	2.3×10^{-15}	0.01
$HCF_2OCF_2OCF_2H$	78522–47–1	HFE–236ca12	2.4×10^{-15}	0.01
$HCF_2OCF_2CF_2OCF_2H$	188690–78–0	HFE–338pcc13	4.7×10^{-15}	0.02
$HCF_2OCF_2OCF_2CF_2OCF_2H$	188690–77–9	H-Galden 1040X	4.6×10^{-15}	0.02

Notes:

1. k_{OH} value for ethane is from: Atkinson, R., Baulch, D. L., Cox, R. A., Crowley, J. N., Hampson, Jr., R. F., Hynes, R. G., Jenkin, M. E., Kerr, J. A., Rossi, M. J., and Troe J. (2006) Evaluated kinetic and photochemical data for atmospheric chemistry: Volume II—gas phase reactions of organic species. Atmos. Chem. Phys. 6, 3625–4055.
2. k_{OH} values for the four compounds being exempted are from: G. Marchionni, R. Silvani, G. Fontana, G. Malinverno, M. Visca, ''Hydrofluoropolyethers.'' *Journal of Fluorine Chemistry,* 95 (1999) 41–50.

C. Likelihood of Risk to Human Health or the Environment

Information in the Solvay Solexis, Incorporated petition and its reference material indicates that the four HFPEs have low acute toxicity, no irritation or skin sensitization, and no detectable genotoxic activity *in vitro* or *in vivo.* The HFPEs show a similarly low potential for developmental toxicity. This toxicity information has been placed in the docket for this rulemaking.

Because HFPEs do not contain chlorine or bromine, these compounds do not contribute to the depletion of the ozone layer and have ozone depletion potential values of zero. In both the refrigeration and fire suppressant end uses, these HFPEs would be used as substitutes for ozone-depleting substances (ODS). All ODS substitutes must undergo review by the EPA's Significant New Alternatives Policy (SNAP) Program. The SNAP Program is EPA's program to evaluate and regulate substitutes for the ozone-depleting chemicals that are being phased out under the stratospheric ozone protection provisions of the CAA. In section 612(c) of the CAA, the agency is authorized to identify and publish lists of acceptable and unacceptable substitutes for class I or class II ozone-depleting substances.[3] The EPA's SNAP program has evaluated the use of these four H-Galden HFPEs and found acceptable their use as fire suppressants in non-residential applications, in place of Halon 1211 (68 FR 4004, January 27, 2003). However, the SNAP program has not approved H-Galden HFPEs for certain other uses (i.e., solvent, aerosol propellant, foam blowing, and refrigeration). There currently is no submission pending review to list these substances as substitutes in other uses. Thus, at this time, it would be a violation of the CAA and the SNAP program regulations for any person to introduce H-Galden HFPEs into interstate commerce for use in other end uses regulated by the SNAP program. H-Galden HFPEs may be used in non-mechanical heat transfer as a secondary refrigerant in secondary-loop refrigeration systems without approval from SNAP; the EPA does not list, and does not currently require notification for, compounds that are used only as a secondary fluid in secondary-loop refrigeration systems (62 FR 10702; March 10, 1997).

Table 3 shows the 20 and 100 year global warning potentials (GWPs) of these four compounds relative to carbon dioxide (CO_2) as reported by the Intergovernmental Panel on Climate Change. These GWP–100 levels are comparable to mid-range levels associated with some chemical compounds that have previously been exempted from the VOC definition, which range from 23 to 12,000. In the January 27, 2003, SNAP rule, the EPA noted that despite their relatively high GWP values, the use of H Galden HFPEs was anticipated to have a smaller to comparable impact on global warming than the hydrofluorocarbons historically used in the same fire suppression application. Overall, the EPA concluded that H Galden HFPEs reduce risk compared to halon 1211, the ODS they replace.

[2] Although the petition listed H-Galden 1040X as having a k_{OH} value of 4.9×0^{-15} (cm^3/molecule-sec) and the preamble to the proposed rule contained this value, EPA has found the actual value to be 4.6×0^{-15} (cm^3/molecule-sec) according to the petitioner's reference (2) in the following paragraph.

[3] Information on the SNAP program can be found on the following Web page: *www.epa.gov/ozone/snap.*

TABLE 3—SUMMARY OF GLOBAL WARMING POTENTIALS RELATIVE TO CO_2 OVER 20 AND 100 YEARS FOR THE FOUR COMPOUNDS BEING CONSIDERED FOR VOC EXEMPTIONS.

Chemical formula	CAS Number	Name	GWP relative to CO_2 (20 years)[1]	GWP relative to CO_2 (100 years)
HCF_2OCF_2H	1691–17–4	HFE–134	12200	6320
$HCF_2OCF_2OCF_2H$	78522–47–1	HFE–236ca12	8000	2800
$HCF_2OCF_2CF_2OCF_2H$	188690–78–0	HFE–338pcc13	5100	1500
$_2OCF_2OCF_2CF_2OCF_2H$	188690–77–9	H-Galden 1040X	6320	1870
CO_2	124–38–9	Carbon dioxide	1	1

Note:

1. Forster, P., V. Ramaswamy, P. Artaxo, T. Berntsen, R. Betts, D.W. Fahey, J. Haywood, J. Lean, DC Lowe, G. Myhre, J. Nganga, R. Prinn, G. Raga, M. Schulz and R. Van Dorland, 2007: Changes in Atmospheric Constituents and in Radiative Forcing. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

Having considered the available information on the likelihood of risk to human health or the environment from increased use of the chemicals considered here, we believe that current regulation of these compounds under other EPA programs adequately protects human health and the environment.

D. Conclusion

For all four compounds, the EPA proposed that (a) these chemicals qualify as negligibly reactive with respect to their contribution to tropospheric ozone formation, and (b) any non-tropospheric ozone-related risks associated with potential increased use are adequately addressed by other existing programs and policies.

III. Public Comments

We received no comments from the public.

IV. Final Action

The EPA is amending its definition of VOC at 40 CFR 51.100(s) to exclude a group of four HFPE's identified as HCF_2OCF_2H (known as HFE–134), $HCF_2OCF_2OCF_2H$ (known as HFE–236cal2), $HCF_2OCF_2CF_2OCF_2H$ (known as HFE–338pcc13), and $HCF_2OCF_2OCF_2CF_2OCF_2H$ (known as H-Galden 1040X and also H-Galden ZT 130 (or 150 or 180)) as VOCs for ozone state implementation plans (SIP) and ozone control purposes. Consistent with the Interim Guidance, the EPA's final action on the petition is based on a consideration of the contribution that each chemical makes to tropospheric ozone formation based on a comparison of reactivity metrics and on our assessment that existing programs or policies already adequately address the possibility that granting the petition would pose a significant risk to human health or the environment.

If an entity uses or produces any of these four HFPE compounds and is subject to the EPA regulations limiting the use of VOC in a product, limiting the VOC emissions from a facility, or otherwise controlling the use of VOC for purposes related to attaining the ozone NAAQS, then the compound will not be counted as a VOC in determining whether these regulatory obligations have been met. Emissions of this compound will not be considered in determining whether a proposed new or modified source triggers the applicability of Prevention of Significant Deterioration (PSD) requirements, in areas where the PSD program is implemented by the EPA or a delegated state, local or tribal agency. This action may also affect whether any of these four HFPE compounds are considered as VOCs for state regulatory purposes to reduce ozone formation, if a state relies on the EPA's definition of VOC. States are not obligated to exclude from control as a VOC those compounds that the EPA has found to be negligibly reactive. However, states may not take credit for controlling these compounds in their ozone control strategies.

The EPA is also amending its definition of VOC at 40 CFR 51.100(s) to make for clarity technical corrections to the current list of exempt compounds at 40 CFR 51.100(s)(1) by replacing several commas separating individual compounds with semicolons and by removing the erroneous ''(1)'' notation in ''(1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300)'' so that it reads ''1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300).''

V. Statutory and Executive Orders Reviews

A. Executive Orders 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993), and is therefore not subject to review under Executive Orders 12866 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). It does not contain any recordkeeping or reporting requirements.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (*See* 13 CFR 121.); (2) A governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act

This action contains no federal mandates 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.

E. Executive Order 13132: Federalism

This action 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. This final action addresses the exemption of a set of chemical compounds from the VOC definition. 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). It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866. This action's health and risk assessments are contained in section II.C. of this preamble and within the docket for this rulemaking. While this final rule is not subject to the Executive Order, the EPA has reason to believe that ozone has a disproportionate effect on active children who play outdoors (62 FR 38856–38859, July 18, 1997). The EPA has not identified any specific studies on whether or to what extent the chemical compound may affect children's health.

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

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d), (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. 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. The NTTAA directs the EPA to provide Congress, through OMB, with explanations when the agency decides not to use available and applicable voluntary consensus standards. This final rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, Feb. 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 United States.

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 it 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 Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of 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 on March 14, 2013.

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit Court within 60 days from the date the final action is published in the **Federal Register.** Filing a petition for review by the Administrator of this final action 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 must be final, and shall not postpone the effectiveness of such action. Thus, any petitions for review of this action related to the exemption of HCF_2OCF_2H (known as HFE–134), $HCF_2OCF_2OCF_2H$ (known as HFE–236cal2), $HCF_2OCF_2CF_2OCF_2H$ (known as HFE–338pcc13), and $HCF_2OCF_2OCF_2CF_2OCF_2H$ (known as H-Galden 1040X and also H-Galden ZT 130 (or 150 or 180)) from the definition of VOC 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 51

Environmental protection, Administrative practice and procedure, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 4, 2013.

Lisa P. Jackson,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7412, 7413, 7414, 7470–7479, 7501–7508, 7601, and 7602.

§ 51.100—[Amended]

■ 2. Section 51.100 is amended at the end of paragraph (s)(1) introductory text by removing the words ''methyl acetate, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C3F7OCH3, HFE–7000), 3-ethoxy- 1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE–7500), 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea), methyl formate (HCOOCH3), (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300); propylene carbonate; dimethyl carbonate; *trans*-1,3,3,3-tetrafluoropropene; and perfluorocarbon compounds which fall into these classes:'' and adding in their place the words ''methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C3F7OCH3, HFE–7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE–7500); 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); methyl formate (HCOOCH3); 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300); propylene carbonate; dimethyl carbonate; *trans*-1,3,3,3-tetrafluoropropene; HCF_2OCF_2H (HFE–134); $HCF_2OCF_2OCF_2H$ (HFE–236cal2); $HCF_2OCF_2CF_2OCF_2H$ (HFE–338pcc13); $HCF_2OCF_2OCF_2CF_2OCF_2H$ (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)); and perfluorocarbon compounds which fall into these classes:''.

[FR Doc. 2013–03057 Filed 2–11–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2009–0648; FRL–9728–7]

Approval and Promulgation of Implementation Plans; New Mexico; Albuquerque/Bernalillo County: Infrastructure and Interstate Transport Requirements for the 1997 and 2008 Ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS

Correction

■ In rule document 2012–22975 beginning on page 58032 in the issue of Wednesday, September 19, 2012, make the following corrections:

§ 52.1620 [Corrected]

Due to an error in the EPA approval date, the table entitled ''EPA–APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS'' on pages 58034 and 58035 is being reprinted in its entirety to read as follows:

EPA-APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS

State citation	Title/subject	State approval/effective date	EPA approval date	Explanation
New Mexico Administrative Code (NMAC) Title 20—Environment Protection, Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board				
* *	*	*	* *	*
Part 8 (20.11.8 NMAC)	Ambient Air Quality Standards.	8/12/2009	September 19, 2012, [Insert FR page number where document begins].	
* *	*	*	* *	*
Part 61 (20.11.61 NMAC)	Prevention of Significant Deterioration.	1/10/2011	September 19, 2012, [Insert FR page number where document begins].	
* *	*	*	* *	*

[FR Doc. C1–2012–22975 Filed 2–11–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 71

[Docket No. CDC–2012–0002]

RIN 0920–AA47

Establishment of User Fees for Filovirus Testing of Nonhuman Primate Liver Samples

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), is amending regulations for the importation of live nonhuman primates (NHPs) by establishing a user fee for filovirus testing of all nonhuman primates that die during the HHS/CDC-required 31-day quarantine period for any reason other than trauma. We are amending the regulations to establish a filovirus testing service at HHS/CDC, because

testing is no longer being offered by the only private, commercial laboratory that previously performed these tests. This testing service will be funded through user fees.

DATES: This final rule is effective on March 14, 2013.

FOR FURTHER INFORMATION CONTACT: Ashley A. Marrone, J.D., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop E–03, Atlanta, Georgia 30333, telephone, 404–498–1600.

SUPPLEMENTARY INFORMATION: This final rule is organized as follows:

Table of Contents

I. Background
II. Public Comment Summary and Responses
A. Public Comments of General Support
B. Public Comments Regarding Analysis of the Rule
III. Alternatives Considered
IV. Payment Instructions
V. Regulatory Analyses
A. Required Regulatory Analyses under Executive Orders 12866 and 13563
B. Regulatory Flexibility Act
C. Small Business Regulatory Enforcement Fairness Act of 1996
D. Paperwork Reduction Act of 1995
E. National Environmental Policy Act (NEPA)
F. Civil Justice Reform (Executive Order 12988)
G. Executive Order 13132 (Federalism)
H. Plain Language Act of 2010

I. Background

On February 10, 2012, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (77 FR 7109) that provided the background, rationale, description of the services and activities covered by the user fee, an analysis of the user fee charge (cost to the government), and payment instructions. On the same date, we published a companion Direct Final Rule (DFR) (77 FR 6981). In both the NPRM and DFR, we stated that if we did not receive any significant adverse comments by April 10, 2012, we would publish a document in the **Federal Register** withdrawing the NPRM and confirming the effective date of the DFR within 30 days after the end of the comment period.

Because the DFR contained an error in effective date and HHS/CDC received a significant adverse public comment, we published a correcting amendment in the **Federal Register** on June 15, 2012 (77 FR 35878), withdrawing the DFR.

II. Public Comment Summary and Responses

HHS/CDC received four public comments on the NPRM. Three of the commenters expressed strong support for the proposal, and one commenter questioned our analysis of the rule. HHS/CDC did not receive any public comments objecting to the amount of the user fee, which is $540.00 USD. The comments and HHS/CDC responses are summarized below.

A. Public Comments of General Support

One commenter indicated that the user fees would be a good idea because the testing of nonhuman primate liver samples for filovirus infection is essential for public health and safety. The commenter stated that the amount of the user fee is not exorbitant and will allow the government to continue to test NHPs. This commenter also expressed concern that the agency would be unable to continue to test NHPs absent reimbursement. Finally, the commenter indicated his/her support for the testing of animals that pose a threat to human life. A second commenter noted that it is the duty of the federal government to protect the health and welfare of its citizens from preventable dangers and that failure to do so would constitute a dereliction of duty. Further, this commenter fully supported what he/she referred to as a ''reasonable fee.''

HHS/CDC Response. HHS/CDC thanks the commenters for their comments.

A third commenter agreed that establishing user fees for filovirus testing of nonhuman primate liver samples was a necessary step toward protecting public health. While this commenter offered ''100%'' support for the regulation, the commenter also questioned whether HHS/CDC's costs for storing records could increase the amount of the user fee in the future.

HHS/CDC Response. Although HHS/CDC has only recently begun to offer this testing service, it has collected and maintained filovirus test results from importers since the beginning of the testing requirement and expects to continue do so in the future. Because maintaining test results are an expense that HHS/CDC had already assumed, these costs were not included in the calculations of the user fee. HHS/CDC does not expect to attempt to recoup these costs in the future.

B. Public Comments Regarding Analysis of the Rule

A commenter stated that CDC did not provide an analysis of the filovirus testing market, including the nature and extent of current and future demand for filovirus testing. The commenter requested that HHS/CDC consider and address the long-term prospects of the filovirus testing market. Specifically, the commenter stated that if the market is minimal, it would be appropriate for the government to administer and perform the testing. On the other hand, if the market was much larger, then it may be in the interest of the public and the government to incentivize the construction of private laboratory facilities for the purpose of filovirus testing, thereby allowing the commercial market to serve the need of importers.

HHS/CDC Response. HHS/CDC disagrees with this comment. While not labeled specifically as a market analysis in the NPRM, the components of a market analysis were included in the preamble of the NPRM. Demand and market size, as calculated by revenues and numbers of requests for filovirus tests, were included in section III ''Rationale for Proposal'' of the NPRM and were based on the observed demand noted by, and fees charged by, the commercial laboratory that performed this service since 1990.

In section VI ''Analysis of User Fee Charge (Cost to the Government)'' of the NPRM, HHS/CDC noted that during the past five years, our records indicated that there were approximately 100–150 requests per year, generating revenues of $50,000 to $75,000 a year.

The issue of future demand was also implicitly addressed in the NPRM, where we noted that the demand for testing is driven by government requirements and the population of imported NHPs that drive the demand is limited by regulation to scientific, exhibition or educational purposes. Thus, we do not expect that market size and demand will change substantially in the long run.

Regarding the commenter's query about the size of the market, we note that regardless of whether the filovirus testing market is measured by requests (100–150) or revenues ($50,000 to $75,000 a year), it is, and will continue to be, a small market from a laboratory perspective. The market revenue generated by testing is too small to create demand specifically for a ''filovirus testing facility'' because laboratories, especially the Biosafety Level 4 (BSL–4) laboratories needed for this type of testing, require large amounts of sunk capital. In this context, ''sunk capital'' is intended to mean investments in laboratory-specific equipment and facilities that cannot be resold for other businesses or used for other purposes. As explained in the NPRM, the testing procedure requires a BSL–4 laboratory for specimen processing, reagent preparation, and the testing procedure. The forecast revenues from filovirus testing of $50,000 to

$75,000 a year would only be a fraction of the budget needed to sustain a BSL–4 type of facility needed to test for filoviruses.

We note that the estimates in the NPRM of a per-test cost of $540.00 USD do not take into account the perspective of a commercial laboratory that would trade the costs and benefits of devoting laboratory space and resources to filovirus testing for other revenue-generating tests and services they could offer. Finally, we note that no commercial entities have entered the market of antigen-capture filovirus testing since the original commercial laboratory stopped providing this service.

Viewed as a whole, these factors (sunk capital required to perform such testing, limited market demand, and current lack of a commercial laboratory offering this service), were instrumental in shaping our view that there is likely no commercial laboratory that will enter this market in the immediate future. However, as indicated in the NPRM, nothing in this final rule prohibits a commercial laboratory from entering the market in the future.

Next, the commenter raised a series of questions regarding long run actions that CDC can take to make filovirus testing viable commercially. Specifically, the commenter said, ''it may be more appropriate to examine the data and other indicators to ensure that the agency is not overlooking any externalities.''

HHS/CDC Response. As noted in the NPRM, there are no private laboratories engaged in filovirus testing at this time. If HHS/CDC were to provide the tests free-of-charge, this would be a long-term disincentive for any commercial lab to enter the business because no commercial lab could compete with no-fee testing. By implementing a fee, CDC is eliminating the nature of unfair government competition created by a price that may be below standard commercial market fees, or free. The fee HHS/CDC intends to charge is consistent with the fee previously charged by the one commercial laboratory performing this type of testing. Furthermore, as HHS/CDC stated in the NPRM and above, the action taken in this rulemaking is not intended to prohibit a private sector facility from developing the capability and offering this same service in the future. When considered together, the fee, the extensive investments needed to build and maintain BSL–4 type laboratories, and the small size of the filovirus testing market, indicate that CDC can take no other short-term or long-term actions to encourage a private market for filovirus testing.

III. Alternatives Considered

As stated earlier in the Preamble, HHS/CDC believes this testing is essential to protect public health and safety. If this testing is not provided, it will have a disruptive impact on imports of NHPs for science, educational, and exhibition purposes, that would remain in quarantine absent a negative test result.

When HHS/CDC learned that the sole commercial laboratory performing this testing was no longer offering the testing, we considered several alternatives to meet the testing requirement. One alternative was to wait for another commercial laboratory to begin performing the testing. However, as stated previously in the Preamble, another laboratory has not entered the market since the previous laboratory stopped performing this testing. Indeed, to date, no laboratory has begun offering this service in response to the NPRM.

Another alternative that HHS/CDC considered was to perform the testing in HHS/CDC laboratories at no cost. However, as commenters have noted, the cost burden of performing the testing without compensation may prevent the Agency from performing the testing indefinitely. Further, as we stated previously in the Preamble, should HHS/CDC offer this testing at no charge, it would create a disincentive to the private sector to enter the market.

Finally, HHS/CDC considered offering a filovirus testing service and establishing a user fee to cover the cost of the testing. This is the alternative that HHS/CDC chose.

IV. Payment Instructions

As of the effective date of this rule, importers should submit a check or money order in the amount of $540.00 USD made payable to Centers for Disease Control and Prevention for each test conducted at the time that specimens are submitted to the CDC for testing. The check(s) should be sent to Centers for Disease Control and Prevention, P.O. Box 15580, Atlanta, GA 30333.

V. Regulatory Analyses

A. Required Regulatory Analyses Under Executive Orders 12866 and 13563

We have examined the impacts of the final rule under Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). Because the purpose of this rule is to provide a framework to determine a fair fee to charge for a service that has become unavailable in private, commercial markets within the United States, we have determined that the rule will not violate the intent of either of the Executive Orders because it will in no way prevent a private entity from entering the field and providing a similar, privatized service. If any private entity expresses an interest in providing this service, we strongly encourage them to do so.

This rule is being treated as ''not significant'' under EO 12866. We are amending 42 CFR 71.53 to establish a filovirus testing service at HHS/CDC, because testing is no longer being offered by the only private, commercial laboratory that previously performed these tests. Thus, the rule has not been reviewed by the Office of Management and Budget (OMB).

B. Regulatory Flexibility Act

We have examined the impacts of the final rule under the Regulatory Flexibility Act (5 U.S.C. 601–612). Unless we certify that the rule is not expected to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), requires agencies to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. We certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This regulatory action is not a major rule as defined by Sec. 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

D. The Paperwork Reduction Act of 1995

HHS/CDC has reviewed the information collection requirements of the final rule and has determined that the information collection requested in the final rule is already approved by the Office of Management and Budget (OMB) under OMB Control No. 0920–0263, expiration date June 30, 2014. The final rule does not contain any new data collection or record keeping requirements.

E. National Environmental Policy Act (NEPA)

Pursuant to 48 FR 9374 (list of HHS/CDC program actions that are categorically excluded from the NEPA environmental review process), HHS/CDC has determined that this action does not qualify for a categorical exclusion. In the absence of an applicable categorical exclusion, the Director, CDC, has determined that provisions amending 42 CFR 71.53 will not have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

F. Civil Justice Reform (Executive Order 12988)

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this final rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

G. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding Federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

H. Plain Language Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS/CDC attempted to use plain language in promulgating this rule consistent with the Federal Plain Writing Act guidelines and requested comment from the public on this topic. HHS/CDC did not receive any public comment to this request.

List of Subjects in 42 CFR Part 71

Communicable diseases, Public health, Quarantine, Reporting and recordkeeping requirements, User fees, Testing.

For the reasons discussed in the preamble, the Centers for Disease Control and Prevention amends 42 CFR part 71 as follows:

PART 71—FOREIGN QUARANTINE

■ 1. The authority citation for 42 CFR part 71 continues to read as follows:

Authority: Sec. 311 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 243), secs. 361–369, PHS Act, as amended (42 U.S.C. 264–272).

Subpart F—Importations

■ 2. In § 71.53, add paragraph (j) to read as follows:

§ 71.53 Nonhuman primates.

* * * * *

(j) *Filovirus testing fee.* (1) Nonhuman primate importers shall be charged a fee for filovirus testing of nonhuman primate liver samples submitted to the Centers for Disease Control and Prevention (CDC).

(2) The fee shall be based on the cost of reagents and other materials necessary to perform the testing; the use of the laboratory testing facility; irradiation for inactivation of the sample; personnel costs associated with performance of the laboratory tests; and administrative costs for test planning, review of assay results, and dissemination of test results.

(3) An up-to-date fee schedule is available from the Division of Global Migration & Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333. Any changes in the fee schedule will be published in the **Federal Register**.

(4) The fee must be paid in U.S. Dollars at the time that the importer submits the specimens to HHS/CDC for testing.

Dated: February 4, 2013.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2013–02825 Filed 2–11–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified
Unincorporated Areas of Craven County, North Carolina Docket No.: FEMA–B–1212				
North Carolina	Unincorporated Areas of Craven County.	Mosley Creek (into Neuse River).	At the upstream side of William Pearce Road.	+25
			Approximately 0.5 mile upstream of Dover Fort Barnwell Road.	+46
North Carolina	Unincorporated Areas of Craven County.	Mosley Creek Tributary	At the Mosley Creek (into Neuse River) confluence.	+25
			Approximately 1.0 mile upstream of State Route 55.	+36
North Carolina	Unincorporated Areas of Craven County.	Tracey Swamp	At the Mosley Creek (into Neuse River) confluence.	+39
			Approximately 1.0 mile downstream of the Jones County boundary.	+41

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Unincorporated Areas of Craven County

Maps are available for inspection at the Craven County GIS/Mapping Department, 226 Pollock Street, New Bern, NC 28560.

Unincorporated Areas of Jones County, North Carolina Docket No.: FEMA–B–1212				
North Carolina	Unincorporated Areas of Jones County.	Southwest Creek Tributary	Approximately 1,750 feet downstream of British Road.	+35
			Approximately 1,000 feet upstream of British Road.	+41

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Unincorporated Areas of Jones County

Maps are available for inspection at the Jones County Government Office, 418 Highway 58 North, Trenton, NC 28585.

Unincorporated Areas of Vance County, North Carolina Docket No.: FEMA–B–1110				
North Carolina	Unincorporated Areas of Vance County.	Buffalo Creek North	At the confluence with the Tar River	+229
			Approximately 300 feet downstream of Dick Smith Road.	+229

State	City/town/county	Source of flooding	Location	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified
North Carolina	Unincorporated Areas of Vance County.	Tabbs Creek	At the confluence with the Tar River	+236
			Approximately 1,700 feet upstream of Egypt Mountain Road.	+236
North Carolina	Unincorporated Areas of Vance County.	Tar River	At the Franklin/Vance county boundary	+229
			At the confluence with Middle Creek	+241

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Unincorporated Areas of Vance County

Maps are available for inspection at the Vance County Planning and Development Office, 156 Church Street, Henderson, NC 27536.

Unincorporated Areas of Wayne County, North Carolina
Docket No.: FEMA–B–1212

North Carolina	Unincorporated Areas of Wayne County.	Bear Creek	At the upstream side of Parkstown Road	+83
			Approximately 150 feet downstream of Rodell Barrow Road.	+113
North Carolina	Unincorporated Areas of Wayne County.	Button Branch	At the Nahunta Swamp confluence	+67
			Approximately 400 feet upstream of the Greene County boundary.	+72
North Carolina	Unincorporated Areas of Wayne County.	Nahunta Swamp	Approximately 1,800 feet downstream of the Greene County boundary.	+65
			Approximately 0.4 mile upstream of The Slough confluence.	+72
North Carolina	Unincorporated Areas of Wayne County.	The Slough	At the Nahunta Swamp confluence	+71
			Approximately 1,800 feet upstream of the Nahunta Swamp confluence.	+72

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Unincorporated Areas of Wayne County

Maps are available for inspection at the Wayne County Manager's Office, 224 East Walnut Street, Goldsboro, NC 27533.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Lancaster County, Nebraska, and Incorporated Areas Docket Nos.: FEMA–B1222			
Little Salt Creek	Approximately 1,293 feet upstream of the Salt Creek confluence.	+1139	City of Lincoln, Unincorporated Areas of Lancaster County.
	Approximately 1,289 feet downstream of West Rock Creek Road.	+1253	
Little Salt Creek Tributary 05	Approximately 0.5 mile downstream of Arbor Road	+1139	City of Lincoln.
	Approximately 121 feet downstream of North 40th Street	+1165	
Little Salt Creek Tributary 10	Approximately 115 feet downstream of North 27th Street	+1143	City of Lincoln.
	Approximately 1,601 feet downstream of Waverly Road	+1217	
Little Salt Creek Tributary 110	Approximately 1,231 feet downstream of North 40th Street	+1160	City of Lincoln.
	Approximately 1,110 feet upstream of North 40th Street	+1181	
Little Salt Creek Tributary 115	Approximately 0.77 mile downstream of North 14th Street	+1146	City of Lincoln.
	Approximately 1.43 miles upstream of North 14th Street	+1220	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Little Salt Creek Tributary 120 ..	Approximately 405 feet upstream of the Little Salt Creek Tributary 20 confluence.	+1152	City of Lincoln.
	Approximately 246 feet downstream of Waverly Road	+1168	
Little Salt Creek Tributary 1260	Approximately 390 feet upstream of the Little Salt Creek Tributary 260 confluence.	+1209	City of Lincoln.
	Approximately 0.82 mile upstream of West Davey Road ...	+1288	
Little Salt Creek Tributary 130 ..	Approximately 192 feet upstream of the Little Salt Creek Tributary 30 confluence.	+1197	Unincorporated Areas of Lancaster County, City of Lincoln.
	Approximately 311 feet upstream of North 1st Street	+1222	
Little Salt Creek Tributary 1415	Approximately 425 feet upstream of the Little Salt Creek Tributary 415 confluence.	+1219	City of Lincoln.
	Approximately 1,072 feet upstream of the Little Salt Creek Tributary 415 confluence.	+1228	
Little Salt Creek Tributary 145 ..	Approximately 615 feet upstream of the Little Salt Creek Tributary 45 confluence.	+1170	Unincorporated Areas of Lancaster County.
	Approximately 241 feet downstream of North 14th Street	+1214	
Little Salt Creek Tributary 15	Approximately 1,952 feet upstream of the Little Salt Creek confluence.	+1145	City of Lincoln.
	Approximately 1,976 feet downstream of Waverly Road ...	+1290	
Little Salt Creek Tributary 150 ..	Approximately 241 feet upstream of the Little Salt Creek Tributary 50 confluence.	+1197	Unincorporated Areas of Lancaster County.
	Approximately 276 feet downstream of North 14th Street	+1224	
Little Salt Creek Tributary 160 ..	Approximately 421 feet downstream of North 1st Street	+1183	Unincorporated Areas of Lancaster County.
	Approximately 283 feet downstream of Branched Oak Road.	+1224	
Little Salt Creek Tributary 170 ..	Approximately 547 feet upstream of the Little Salt Creek Tributary 70 confluence.	+1207	Unincorporated Areas of Lancaster County.
	Approximately 160 feet downstream of West Raymond Road.	+1245	
Little Salt Creek Tributary 20	Approximately 643 feet upstream of the Little Salt Creek confluence.	+1152	City of Lincoln, Unincorporated Areas of Lancaster County.
	Approximately 200 feet downstream of North 40th Street	+1256	
Little Salt Creek Tributary 210 ..	Approximately 206 feet upstream of the Little Salt Creek Tributary 10 confluence.	+1195	City of Lincoln.
	Approximately 1,025 feet upstream of the Little Salt Creek Tributary 10 confluence.	+1202	
Little Salt Creek Tributary 215 ..	Approximately 904 feet downstream of North 14th Street	+1165	City of Lincoln.
	Approximately 142 feet downstream of McKelvie Road	+1194	
Little Salt Creek Tributary 220 ..	Approximately 829 feet downstream of Waverly Road	+1172	City of Lincoln, Unincorporated Areas of Lancaster County.
	Approximately 171 feet downstream of Mill Road	+1237	
Little Salt Creek Tributary 2220	Approximately 434 feet downstream of Mill Road	+1221	Unincorporated Areas of Lancaster County.
	Approximately 1,534 feet upstream of Mill Road	+1248	
Little Salt Creek Tributary 230 ..	Approximately 448 feet upstream of the Little Salt Creek Tributary 30 confluence.	+1217	Unincorporated Areas of Lancaster County.
	Approximately 1,719 feet upstream of the Little Salt Creek Tributary 30 confluence.	+1231	
Little Salt Creek Tributary 25	Approximately 1,365 feet upstream of the Little Salt Creek confluence.	+1152	City of Lincoln.
	Approximately 95 feet upstream of North 14th Street	+1184	
Little Salt Creek Tributary 250 ..	Approximately 406 feet upstream of the Little Salt Creek Tributary 50 confluence.	+1214	Unincorporated Areas of Lancaster County.
	Approximately 247 feet downstream of North 14th Street	+1247	
Little Salt Creek Tributary 260 ..	Approximately 363 feet upstream of the Little Salt Creek Tributary 60 confluence.	+1200	Unincorporated Areas of Lancaster County.
	Approximately 1,559 feet upstream of Davey Road	+1281	
Little Salt Creek Tributary 270 ..	Approximately 279 feet upstream of the Little Salt Creek Tributary 70 confluence.	+1230	Unincorporated Areas of Lancaster County.
	Approximately 1,270 feet upstream of the Little Salt Creek Tributary 70 confluence.	+1240	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Little Salt Creek Tributary 30	Approximately 0.87 mile downstream of North 14th Street	+1157	City of Lincoln, Unincorporated Areas of Lancaster County.
	Approximately 0.95 mile upstream of North 1st Street	+1260	
Little Salt Creek Tributary 315 ..	Approximately 247 feet downstream of North 7th Street ...	+1185	City of Lincoln.
	Approximately 62 feet downstream of Alvo Road	+1205	
Little Salt Creek Tributary 320 ..	Approximately 393 feet upstream of the Little Salt Creek Tributary 20 confluence.	+1211	Unincorporated Areas of Lancaster County.
	Approximately 188 feet downstream of Raymond Road	+1251	
Little Salt Creek Tributary 35	Approximately 60 feet upstream of Waverly Road	+1157	City of Lincoln, Unincorporated Areas of Lancaster County.
	Approximately 0.80 mile upstream of the Little Salt Creek confluence.	+1194	
Little Salt Creek Tributary 360 ..	Approximately 261 feet upstream of the Little Salt Creek Tributary 60 confluence.	+1256	Unincorporated Areas of Lancaster County.
	Approximately 1,010 feet downstream of West Rock Creek Road.	+1263	
Little Salt Creek Tributary 40	Approximately 1,536 feet upstream of the Little Salt Creek confluence.	+1165	Unincorporated Areas of Lancaster County.
	Approximately 93 feet downstream of Mill Road	+1198	
Little Salt Creek Tributary 415 ..	Approximately 600 feet upstream of the Little Salt Creek Tributary 15 confluence.	+1206	City of Lincoln.
	Approximately 1,829 feet upstream of North 1st Street	+1228	
Little Salt Creek Tributary 420 ..	Approximately 55 feet upstream of the Little Salt Creek Tributary 20 confluence.	+1218	Unincorporated Areas of Lancaster County.
	Approximately 178 feet downstream of Raymond Road	+1247	
Little Salt Creek Tributary 45	Approximately 77 feet downstream of Mill Road	+1169	Unincorporated Areas of Lancaster County, Village of Davey.
	Approximately 1,734 feet upstream of Branched Oak Road.	+1172	
Little Salt Creek Tributary 50	Approximately 0.77 mile downstream of Raymond Road ..	+1172	Unincorporated Areas of Lancaster County.
	Approximately 0.52 mile upstream of Branched Oak Road	+1269	
Little Salt Creek Tributary 520 ..	Approximately 194 feet downstream of Raymond Road	+1251	Unincorporated Areas of Lancaster County.
	Approximately 94 feet downstream of Raymond Road	+1253	
Little Salt Creek Tributary 55	Approximately 264 feet upstream of North 1st Street	+1175	Unincorporated Areas of Lancaster County.
	Approximately 0.45 mile upstream of North 1st Street	+1187	
Little Salt Creek Tributary 60	Approximately 0.98 mile downstream of West Branched Oak Road.	+1180	Unincorporated Areas of Lancaster County.
	Approximately 1,183 feet downstream of West Rock Creek Road.	+1262	
Little Salt Creek Tributary 65	Approximately 0.82 mile downstream of West Raymond Road.	+1180	Unincorporated Areas of Lancaster County.
	Approximately 0.94 mile upstream of West Raymond Road.	+1246	
Little Salt Creek Tributary 70	Approximately 1 mile downstream of Northwest 27th Street.	+1192	Unincorporated Areas of Lancaster County.
	Approximately 1,754 feet upstream of Northwest 27th Street.	+1256	
Little Salt Creek Tributary 75	At the Little Salt Creek confluence	+1203	Unincorporated Areas of Lancaster County.
	Approximately 0.95 mile upstream of the Little Salt Creek confluence.	+1250	
Little Salt Creek Tributary 80	At the Little Salt Creek confluence	+1210	Unincorporated Areas of Lancaster County.
	Approximately 1,283 feet downstream of West Rock Creek Road.	+1273	
Little Salt Creek Tributary 85	Approximately 142 feet upstream of the Little Salt Creek confluence.	+1216	Unincorporated Areas of Lancaster County.
	Approximately 1,884 feet downstream of West Davey Road.	+1246	

* National Geodetic Vertical Datum.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected

+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Lincoln

Maps are available for inspection at the Building and Safety Department, 555 South 10th Street, Lincoln, NE 68508.

Unincorporated Areas of Lancaster County

Maps are available for inspection at the Building and Safety Department, 555 South 10th Street, Lincoln, NE 68508.

Village of Davey

Maps are available for inspection at Davey Hall, 3530 Elm Street, Davey, NE 68336.

Franklin County, North Carolina, and Incorporated Areas
Docket No.: FEMA–B–1110

Basin 10, Stream 14	At the Franklin/Wake county boundary	+307	Unincorporated Areas of Franklin County.
	Approximately 300 feet downstream of Bethlehem Church Road (State Route 1103).	+387	
Bear Swamp Creek	At the confluence with the Tar River	+210	Unincorporated Areas of Franklin County.
	Approximately 0.5 mile upstream of Dyking Road (State Route 1235).	+211	
Big Branch Creek	At the confluence with Cedar Creek	+191	Unincorporated Areas of Franklin County.
	Approximately 0.3 mile upstream of the confluence with Cedar Creek.	+191	
Billys Creek	At the confluence with the Tar River	+225	Unincorporated Areas of Franklin County.
	Approximately 2.5 miles upstream of Montgomery Road	+272	
Brandy Creek Tributary	Approximately 850 feet downstream of Fleming Road (State Route 1132).	+333	Town of Youngsville, Unincorporated Areas of Franklin County.
	Approximately 1,000 feet upstream of Fleming Road (State Route 1132).	+352	
Buffalo Creek South	At the confluence with the Tar River	+212	Unincorporated Areas of Franklin County.
	Approximately 0.4 mile upstream of Perry's Chapel Church Road (State Route 1003).	+285	
Cedar Creek	At the confluence with the Tar River	+191	Unincorporated Areas of Franklin County.
	Approximately 1.2 miles upstream of Pocokomoke Road (State Route 1127).	+438	
Cedar Creek Tributary	Approximately 400 feet upstream of the confluence with Cedar Creek.	+374	Unincorporated Areas of Franklin County.
	Approximately 0.3 mile upstream of the confluence with Cedar Creek.	+386	
Cedar Creek Tributary 3	Approximately 0.4 mile downstream of Long Mill Road (State Route 1134).	+381	Unincorporated Areas of Franklin County.
	Approximately 200 feet upstream of Long Mill Road (State Route 1134).	+402	
Cedar Creek Tributary 3A	Approximately 700 feet upstream of the confluence with Cedar Creek Tributary 3.	+355	Unincorporated Areas of Franklin County.
	Approximately 0.5 mile upstream of the confluence with Cedar Creek Tributary 3.	+397	
Crooked Creek	At the confluence with the Tar River	+172	Unincorporated Areas of Franklin County.
	At the downstream side of Cheves Road (State Route 1731).	+172	
Cypress Creek	At the confluence with the Tar River	+171	Unincorporated Areas of Franklin County.
	Approximately 1.2 miles upstream of the confluence with the Tar River.	+171	
Fox Creek	At the confluence with the Tar River	+200	Town of Louisburg, Unincorporated Areas of Franklin County.
	Approximately 0.3 mile upstream of State Highway 56	+202	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Franklinton Branch	Approximately 0.3 mile upstream of the confluence with Cedar Creek.	+265	Town of Franklinton, Unincorporated Areas of Franklin County.
	Approximately 1.3 miles upstream of Lane Store Road (State Route 1118).	+310	
Horse Creek	Approximately 230 feet upstream of Nottingham Court (State Route 1177).	+387	Unincorporated Areas of Franklin County.
	Approximately 0.5 mile upstream of John Mitchell Road (State Route 1140).	+430	
Horse Creek Tributary 1	Approximately 250 feet upstream of Keighlely Forest Drive.	+344	Unincorporated Areas of Franklin County.
	Approximately 1.0 mile upstream of Holden Road (State Route 1147).	+401	
Horse Creek Tributary 2	Approximately 200 feet upstream of the confluence with Horse Creek.	+382	Unincorporated Areas of Franklin County.
	Approximately 0.9 mile upstream of John Mitchell Road	+434	
Jumping Run	At the confluence with the Tar River	+192	Unincorporated Areas of Franklin County.
	Approximately 750 feet downstream of East River Road (State Route 1600).	+194	
Little River Tributary 1	Approximately 1,350 feet upstream of the confluence with the Little River.	+328	Unincorporated Areas of Franklin County.
	Approximately 0.4 mile upstream of the confluence with the Little River.	+335	
Little River Tributary 2	Approximately 800 feet upstream of the confluence with the Little River.	+329	Unincorporated Areas of Franklin County.
	Approximately 300 feet upstream of Williamston Ridge Drive.	+361	
Little River Tributary 3	Approximately 450 feet downstream of Darius Pearce Road (State Route 1101).	+330	Unincorporated Areas of Franklin County.
	Approximately 0.3 mile upstream of North Carolina Highway 98.	+360	
Little River Tributary 3A	At the confluence with the Little River Tributary 3	+338	Unincorporated Areas of Franklin County.
	Approximately 0.4 mile upstream of the confluence with Little River Tributary 3.	+350	
Little River Tributary 3B	At the confluence with Little River Tributary 3A	+338	Unincorporated Areas of Franklin County.
	Approximately 250 feet upstream of North Carolina Highway 98.	+358	
Little River Tributary 6	Approximately 675 feet downstream of Allens Lane	+355	Unincorporated Areas of Franklin County.
	Approximately 365 feet upstream of Allens Lane	+364	
Little River Tributary 8	Approximately 700 feet upstream of the confluence with the Little River.	+372	Unincorporated Areas of Franklin County.
	Approximately 600 feet upstream of Oak Grove Church Road.	+386	
Lynch Creek	At the confluence with the Tar River	+212	Unincorporated Areas of Franklin County.
	Approximately 0.5 mile upstream of Dyking Road (State Route 1235).	+212	
Middle Creek	At the confluence with the Tar River	+241	Unincorporated Areas of Franklin County.
	Approximately 1.2 miles upstream of the confluence with the Tar River.	+241	
Richland Creek	Approximately 850 feet upstream of the confluence with Richland Creek Tributary 2.	+301	Town of Youngsville, Unincorporated Areas of Franklin County.
	Approximately 0.3 mile upstream of Holden Road	+364	
Smith Creek (Basin 6, Stream 1).	At the Franklin/Wade county boundary	+327	Unincorporated Areas of Franklin County.
	Approximately 0.6 mile upstream of the Franklin/Wake county boundary.	+353	
Sycamore Creek	At the confluence with the Tar River	+198	Unincorporated Areas of Franklin County.
	Approximately 100 feet downstream of North Carolina Highway 56.	+199	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Tar River	At the Franklin/Nash county boundary	+171	Town of Bunn, Town of Louisburg, Unincorporated Areas of Franklin County.
	At the confluence with Middle Creek	+241	
Tar River Tributary 1	At the confluence with the Tar River	+195	Unincorporated Areas of Franklin County.
	Approximately 0.9 mile upstream of the confluence with the Tar River.	+196	
Taylors Creek	At the confluence with the Tar River	+237	Town of Franklinton, Unincorporated Areas of Franklin County.
	Approximately 250 feet upstream of West Green Street	+311	
Tooles Creek	At the confluence with Lynch Creek	+212	Unincorporated Areas of Franklin County.
	Approximately 0.6 mile upstream of Dyking Road (State Route 1235).	+212	
Wolfpen Branch	At the confluence with the Tar River	+195	Unincorporated Areas of Franklin County.
	Approximately 0.9 mile upstream of the confluence with the Tar River.	+196	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Bunn
Maps are available for inspection at the Town Hall, 601 Main Street, Bunn, NC 27508.

Town of Franklinton
Maps are available for inspection at the Town Hall, 7 West Mason Street, Franklinton, NC 27525.

Town of Louisburg
Maps are available for inspection at the Town Hall, 110 West Nash Street, Louisburg, NC 27549.

Town of Youngsville
Maps are available for inspection at the Town Hall, 118 North Cross Street, Youngsville, NC 27596.

Unincorporated Areas of Franklin County
Maps are available for inspection at the Franklin County Planning and Inspections Office, 215 East Nash Street, Louisburg, NC 27549.

Greene County, North Carolina, and Incorporated Areas
Docket No.: FEMA–B–1212

Appletree Swamp	Approximately 200 feet downstream of Nahunta Road	+55	Unincorporated Areas of Greene County.
	Approximately 0.4 mile upstream of Apple Tree Road	+75	
Bear Creek	At the upstream side of Parkstown Road	+83	Unincorporated Areas of Greene County.
	Approximately 0.9 mile upstream of Oakdale Road	+107	
Button Branch	At Fort Run Road	+70	Unincorporated Areas of Greene County.
	Approximately 1.3 miles upstream of Fort Run Road	+82	
Contentnea Creek	Approximately 2.3 miles downstream of the Wheat Swamp confluence.	+34	Town of Hookerton, Town of Snow Hill, Unincorporated Areas of Greene County.
	Approximately 1,300 feet upstream of State Route 58	+63	
Contentnea Creek Tributary 8	At the Contentnea Creek confluence	+41	Town of Snow Hill, Unincorporated Areas of Greene County.
	Approximately 200 feet upstream of Kingold Boulevard	+64	
Contentnea Creek Tributary 9	At the Contentnea Creek confluence	+43	Town of Snow Hill, Unincorporated Areas of Greene County.
	Approximately 1.5 miles upstream of Beaman Old Creek Road.	+65	
Cow Branch	At the Nahunta Swamp confluence	+60	Unincorporated Areas of Greene County.
	Approximately 2.1 miles upstream of Cow Branch Road	+114	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Fort Run	At the Contentnea Creek confluence	+47	Unincorporated Areas of Greene County.
	Approximately 1,800 feet upstream of Gurganus Road	+83	
Little Contentnea Creek	Approximately 1,500 feet downstream of State Route 903	+31	Unincorporated Areas of Greene County.
	At the Wilson County boundary	+83	
Middle Swamp	At the Little Contentnea Creek confluence	+42	Unincorporated Areas of Greene County.
	Approximately 300 feet upstream of U.S. Route 258	+62	
Nahunta Swamp	At the Contentnea Creek confluence	+51	Unincorporated Areas of Greene County.
	At the Button Branch confluence	+66	
Poorhouse Run	At the Contentnea Creek confluence	+41	Town of Snow Hill, Unincorporated Areas of Greene County.
	Approximately 0.7 mile upstream of Kingold Boulevard	+71	
Rainbow Creek	At the Contentnea Creek confluence	+35	Town of Hookerton, Unincorporated Areas of Greene County.
	At the downstream side of Lloyd Harrison Road	+63	
Sandy Run	At the Middle Swamp confluence	+45	Unincorporated Areas of Greene County.
	Approximately 0.7 mile upstream of the Middle Swamp confluence.	+45	
Toisnot Swamp	At the Contentnea Creek confluence	+59	Unincorporated Areas of Greene County.
	Approximately 200 feet upstream of the railroad	+63	
Tyson March	At the Contentnea Creek confluence	+43	Unincorporated Areas of Greene County.
	Approximately 1,300 feet downstream of Gray Turnage Road.	+69	
Wheat Swamp	At the Contentnea Creek confluence	+34	Unincorporated Areas of Greene County.
	Approximately 1.1 miles upstream of Hugo Road	+35	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Hookerton
Maps are available for inspection at the Town Hall, 227 East Main Street, Hookerton, NC 28538.

Town of Snow Hill
Maps are available for inspection at the Town Hall, 201 North Greene Street, Snow Hill, NC 28580.

Unincorporated Areas of Greene County
Maps are available for inspection at the Greene County Inspections Department, 104 Hines Street, Snow Hill, NC 28580.

Lenoir County, North Carolina, and Incorporated Areas
Docket No.: FEMA–B–1212

Adkin Branch	At the upstream side of West Gordon Street	+36	City of Kinston, Unincorporated Areas of Lenoir County.
	At the upstream side of Crawford Street	+76	
Briery Run	Approximately 1,100 feet upstream of the Stonyton Creek confluence.	+35	City of Kinston, Unincorporated Areas of Lenoir County.
	Approximately 1,500 feet upstream of Rouse Road	+66	
Deep Run	At the Southwest Creek confluence	+74	Unincorporated Areas of Lenoir County.
	Approximately 450 feet upstream of State Route 11	+88	
Eagle Swamp	Approximately 1,300 feet downstream of South Highland Avenue.	+25	Unincorporated Areas of Lenoir County.
	At the downstream side of Sharon Church Road	+52	
Falling Creek	Approximately 0.4 mile upstream of Pruitt Road	+42	Unincorporated Areas of Lenoir County.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
	Approximately 700 feet downstream of the Jumping Run confluence.	+67	
Falling Creek Tributary	At the Falling Creek confluence	+54	Unincorporated Areas of Lenoir County.
	Approximately 300 feet upstream of Springwood Bridge	+79	
Groundnut Creek	At the Mosley Creek (into Falling Creek) confluence	+68	Unincorporated Areas of Lenoir County.
	Approximately 150 feet upstream of Harrison Phelps Road.	+91	
Gum Swamp	At the Falling Creek confluence	+57	Unincorporated Areas of Lenoir County.
	Approximately 250 feet upstream of Wheat Swamp Road	+91	
Jericho Run	Approximately 200 feet downstream of State Route 55	+30	City of Kinston, Unincorporated Areas of Lenoir County.
	Approximately 250 feet upstream of Cunningham Road	+53	
Jericho Run Tributary	At the Jericho Run confluence	+44	City of Kinston, Unincorporated Areas of Lenoir County.
	Approximately 250 feet upstream of the railroad	+66	
Jumping Run	Approximately 0.4 mile upstream of the Falling Creek confluence.	+71	Unincorporated Areas of Lenoir County.
	Approximately 200 feet upstream of Jumping Run Church Road.	+107	
Mosley Creek (into Falling Creek).	At the Falling Creek confluence	+62	Town of La Grange, Unincorporated Areas of Lenoir County.
	Approximately 360 feet upstream of State Route 903	+90	
Mosley Creek (into Neuse River).	Approximately 100 feet upstream of William Pearce Road	+25	Unincorporated Areas of Lenoir County.
	At the Tracey Swamp confluence	+39	
Neuse River Tributary	Approximately 700 feet upstream of U.S. Route 70	+42	City of Kinston, Unincorporated Areas of Lenoir County.
	At the upstream side of the railroad	+52	
Rivermont Tributary	At the upstream side of West New Bern Road	+38	City of Kinston, Unincorporated Areas of Lenoir County.
	Approximately 1,300 feet upstream of Old Asphalt Road	+38	
Southwest Creek	Approximately 400 feet upstream of U.S. Route 70	+36	City of Kinston, Unincorporated Areas of Lenoir County.
	Approximately 1.0 mile upstream of Liddell Road	+128	
Stonyton Creek	Approximately 1,900 feet upstream of State Route 11	+29	City of Kinston, Unincorporated Areas of Lenoir County.
	At the downstream side of John Mewborne Road	+63	
Strawberry Branch	At the Southwest Creek confluence	+37	City of Kinston, Unincorporated Areas of Lenoir County.
	Approximately 170 feet downstream of Whaley Road	+49	
Taylors Branch	At the Briery Run confluence	+61	City of Kinston, Unincorporated Areas of Lenoir County.
	Approximately 1,500 feet upstream of Rouse Road	+74	
Tracey Swamp	At the Mosley Creek (into Neuse River) confluence	+39	Unincorporated Areas of Lenoir County.
	Approximately 1.0 mile downstream of the Jones County boundary.	+41	
Tuckahoe Swamp	Approximately 1,500 feet downstream of West Pleasant Hill Road.	+87	Unincorporated Areas of Lenoir County.
	Approximately 525 feet upstream of Ash Davis Road	+97	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected

ADDRESSES

City of Kinston
Maps are available for inspection at City Hall, 207 East King Street, Kinston, NC 28501.

Town of La Grange
Maps are available for inspection at the Town Hall, 203 South Center Street, La Grange, NC 28551.

Unincorporated Areas of Lenoir County
Maps are available for inspection at the Lenoir County Planning Department, 101 North Queen Street, Kinston, NC 28502.

Nash County, North Carolina, and Incorporated Areas
Docket No.: FEMA–B–1153

Cypress Creek	At the confluence with the Tar River	+171	Unincorporated Areas of Nash County.
	Approximately 300 feet upstream of Lake Royale Road (Secondary Road 1316).	+171	
Little Creek	Approximately 500 feet downstream of the railroad	+199	Town of Middlesex, Unincorporated Areas of Nash County.
	Approximately 0.5 mile upstream of Debnam Road	+278	
Tar River	Approximately 0.64 mile downstream of U.S. Highway 64	+162	Town of Spring Hope, Unincorporated Areas of Nash County.
	At the confluence with Cypress Creek	+171	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Middlesex
Maps are available for inspection at the Town Hall, 10232 South Nash Street, Middlesex, NC 27557.

Town of Spring Hope
Maps are available for inspection at the Town Hall, 118 West Railroad Street, Spring Hope, NC 27882.

Unincorporated Areas of Nash County
Maps are available for inspection at the Nash County Planning Department, 120 West Washington Street, Suite 2110, Nashville, NC 27856.

Pitt County, North Carolina, and Incorporated Areas
Docket No.: FEMA–B–1212

Black Swamp	At the Little Contentnea Creek confluence	+61	Town of Farmville, Unincorporated Areas of Pitt County.
	Approximately 0.6 mile upstream of the Little Contentnea Creek confluence.	+62	
Contentnea Creek South Tributary.	Approximately 1.0 mile upstream of the Contentnea Creek confluence.	+25	Town of Grifton, Unincorporated Areas of Pitt County.
	Approximately 0.7 mile upstream of McCrae Street	+33	
Eagle Swamp	Approximately 0.3 mile downstream of South Highland Avenue.	+25	Town of Grifton.
	Approximately 500 feet upstream of Skeeter Pond Road	+31	
Jacob Branch	At the Black Swamp confluence	+61	Town of Farmville, Unincorporated Areas of Pitt County.
	Approximately 0.3 mile upstream of the Black Swamp confluence.	+62	
Little Contentnea Creek	Approximately 0.3 mile downstream of State Route 903	+31	Town of Farmville, Unincorporated Areas of Pitt County.
	Approximately 450 feet downstream of Spring Branch Church Road (State Route 1308).	+83	
Little Contentnea Creek Tributary 1.	At the Little Contentnea Creek confluence	+32	Unincorporated Areas of Pitt County.
	Approximately 1.2 miles upstream of the Little Contentnea Creek confluence.	+32	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Middle Swamp	At the Little Contentnea Creek confluence	+42	Town of Farmville, Unincorporated Areas of Pitt County.
	Approximately 700 feet upstream of U.S. Route 258	+62	
Pinelog Branch	Approximately 900 feet downstream of Askew Road	+53	Unincorporated Areas of Pitt County.
	Approximately 1,500 feet upstream of Fred Drive	+78	
Pinelog Branch North Tributary	At the Pinelog Branch confluence	+65	Unincorporated Areas of Pitt County.
	At the downstream side of Mozingo Road	+71	
Pinelog Branch South Tributary	Approximately 100 feet upstream of the Pinelog Branch confluence.	+69	Unincorporated Areas of Pitt County.
	Approximately 0.5 mile upstream of Stantonsburg Road	+81	
Ward Run	At the Little Contentnea Creek confluence	+79	Unincorporated Areas of Pitt County.
	Approximately 0.3 mile upstream of the Little Contentnea Creek confluence.	+80	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Farmville
Maps are available for inspection at the Town Hall, 3672 North Main Street, Farmville, NC 27828.

Town of Grifton
Maps are available for inspection at the Pitt County Planning Department, 1717 West 5th Street, Greenville, NC 27834.

Unincorporated Areas of Pitt County
Maps are available for inspection at the Pitt County Planning Department, 1717 West 5th Street, Greenville, NC 27834.

Wake County, North Carolina, and Incorporated Areas
Docket No.: FEMA–B–1112

Basin 10, Stream 13	At the confluence with Basin 10, Stream 14	+276	Unincorporated Areas of Wake County.
	Approximately 1,400 feet upstream of the confluence with Basin 10, Stream 14.	+276	
Basin 10, Stream 14	Approximately 0.5 mile upstream of the confluence with the Little River.	+268	Unincorporated Areas of Wake County.
	At the Wake County boundary	+307	
Horse Creek Tributary 1	At the downstream side of Keighley Forest Drive	+341	Unincorporated Areas of Wake County.
	Approximately 850 feet upstream of Keighley Forest Drive	+345	
Richland Creek	Approximately 850 feet upstream of the confluence with Richland Creek Tributary 2.	+301	Town of Wake Forest.
	Approximately 500 feet downstream of the confluence with Hattles Branch.	+315	
Richland Creek Tributary 2	Approximately 750 feet upstream of the confluence with Richland Creek.	+301	Town of Wake Forest.
	Approximately 0.4 mile upstream of the confluence with Richland Creek.	+317	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of Wake Forest
Maps are available for inspection at the Planning Department, 301 South Brooks Street, 3rd Floor, Wake Forest, NC 27587.

Unincorporated Areas of Wake County
Maps are available for inspection at the Wake County Environmental Services Department, 337 South Salisbury Street, Raleigh, NC 27602.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Wilson County, North Carolina, and Incorporated Areas Docket No.: FEMA–B–1200 and B–1212			
Black Creek	At the Contentnea Creek confluence	+66	Town of Black Creek, Unincorporated Areas of Wilson County.
	Approximately 50 feet upstream of U.S. Route 117	+91	
Black Creek Tributary	Approximately 1,500 feet upstream of the Black Creek confluence.	+92	Town of Lucama, Unincorporated Areas of Wilson County.
	Approximately 100 feet upstream of the Tributary to Black Creek Tributary confluence.	+102	
Bloomery Swamp	Approximately 500 feet upstream of the Bloomery Swamp Tributary 2 confluence.	+102	City of Wilson, Unincorporated Areas of Wilson County.
	At the Millstone Creek and Juniper Creek confluence	+155	
Bloomery Swamp Tributary 3	Approximately 50 feet upstream of Alternate U.S. Route 264.	+130	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 1,560 feet upstream of Packhouse Road (State Route 1382).	+150	
Contentnea Creek	Approximately 1,800 feet downstream of North Carolina Highway 58.	+59	Town of Stantonsburg, Unincorporated Areas of Wilson County.
	Approximately 0.8 mile downstream of the Little Swamp confluence.	+109	
Contentnea Creek Tributary	At the Contentnea Creek confluence	+77	Town of Black Creek, Unincorporated Areas of Wilson County.
	Approximately 1,920 feet upstream of Yank Road (State Route 1615).	+106	
Goss Swamp	At the Toisnot Swamp confluence	+63	Town of Stantonsburg, Unincorporated Areas of Wilson County.
	Approximately 0.8 mile upstream of the Toisnot Swamp confluence.	+64	
Hog Island Tributary	At the Toisnot Swamp confluence	+98	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 50 feet downstream of Firestone Parkway (State Route 1328).	+109	
Hominy Swamp Tributary 1	Approximately 0.5 mile upstream of the Hominy Swamp confluence.	+85	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 75 feet upstream of Tuskeegee Street	+131	
Little Contentnea Creek	Approximately 450 feet downstream of Eagles Cross Road.	+83	Unincorporated Areas of Wilson County.
	Approximately 1.1 miles upstream of Eagles Cross Road	+90	
Little Swamp	Approximately 1.6 miles upstream of the Contentnea Creek confluence.	+116	Unincorporated Areas of Wilson County.
	Approximately 140 feet upstream of Radio Tower Road (State Route 1152).	+163	
Marsh Swamp	Approximately 0.6 mile upstream of the Contentnea Creek confluence.	+125	Unincorporated Areas of Wilson County.
	Approximately 1,600 feet upstream of the dam	+230	
Marsh Swamp Tributary	At the Marsh Swamp confluence	+141	Unincorporated Areas of Wilson County.
	Approximately 1,830 feet upstream of High Road (State Route 1148).	+196	
Mill Branch (into Contentnea Creek).	Approximately 1,900 feet upstream of the Contentnea Creek confluence.	+108	Unincorporated Areas of Wilson County.
	Approximately 410 feet upstream of I–95	+140	
Millstone Creek	At the Bloomery Swamp and Juniper Swamp confluence	+155	Unincorporated Areas of Wilson County.
	Approximately 530 feet upstream of Countryside Road (State Route 1302).	+160	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Shepard Branch	Approximately 0.7 mile upstream of the Contentnea Creek confluence.	+106	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 0.8 mile upstream of Old Raleigh Road (State Route 1136).	+134	
Toisnot Swamp	Approximately 1,400 feet upstream of the Contentnea Creek confluence.	+59	City of Wilson, Town of Stantonsburg, Unincorporated Areas of Wilson County.
	Approximately 0.8 mile upstream of Lake Wilson Road	+121	
Toisnot Swamp Tributary	At the Toisnot Swamp confluence	+107	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 1.2 miles upstream of the Tributary 2 to Toisnot Swamp Tributary confluence.	+145	
Tributary 1 to Toisnot Swamp Tributary.	At the Toisnot Swamp Tributary confluence	+131	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 1,150 feet upstream of Grandy Drive	+152	
Tributary 2 to Toisnot Swamp Tributary.	At the Toisnot Swamp Tributary confluence	+132	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 0.6 mile upstream of the Toisnot Swamp Tributary confluence.	+144	
Tributary to Black Creek Tributary.	At the Black Creek Tributary confluence	+102	Town of Lucama, Unincorporated Areas of Wilson County.
	Approximately 330 feet upstream of Little Rock Church Road (State Route 1649).	+118	
Whiteoak Swamp	At the Buck Branch confluence	+80	Unincorporated Areas of Wilson County.
	Approximately 800 feet upstream of the Mill Branch (into Whiteoak Swamp) confluence.	+84	
Whiteoak Swamp Tributary	At the Whiteoak Swamp confluence	+82	Unincorporated Areas of Wilson County.
	Approximately 160 feet upstream of Etheridge Road (State Route 1522).	+88	
Wiggins Mill Tributary	Approximately 0.4 mile upstream of Forest Hills Road	+99	City of Wilson, Unincorporated Areas of Wilson County.
	Approximately 1.7 miles upstream of Forest Hills Road	+120	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Wilson
Maps are available for inspection at City Hall, 112 Goldsboro Street, Wilson, NC 27893.

Town of Black Creek
Maps are available for inspection at the Town Hall, 112 West Center Street, Black Creek, NC 27813.

Town of Lucama
Maps are available for inspection at the Town Hall, 111 South Main Street, Lucama, NC 27851.

Town of Stantonsburg
Maps are available for inspection at the Town Hall, 108 Commercial Avenue, Stantonsburg, NC 27883.

Unincorporated Areas of Wilson County
Maps are available for inspection at the Wilson County Manager's Office, 2201 Miller Road South, Wilson, NC 27893.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

James A. Walke,

Acting Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–03077 Filed 2–11–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 209

[Docket No. FRA–2004–17530, Notice No. 3]

RIN 2130–ZA11

Minimum and Ordinary Maximum and Aggravated Maximum Civil Monetary Penalties for a Violation of the Hazardous Materials Transportation Laws or Regulations, Orders, Special Permits, or Approvals Under Those Laws

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FRA is revising its regulations to reflect amendments to certain statutory civil monetary penalty provisions effected by the Moving Ahead for Progress in the 21st Century Act (MAP–21), which was enacted on July 6, 2012. These statutory amendments became effective on October 1, 2012. Pursuant to the Act, FRA is eliminating the minimum penalty for other than a training violation and adjusting both the ordinary maximum penalty and the aggravated maximum penalty that applies when assessing a civil monetary penalty for a violation of the Federal hazardous materials transportation laws or a regulation, special permit, or approval issued under those laws. FRA is also revising references to these minimums and maximums in its civil penalty assessment guidelines to conform to these statutory changes.

DATES: *Effective Date:* This rule is effective February 12, 2013.

Applicability Date: This final rule applies to all violations of the Federal hazardous materials transportation laws or a regulation, order, special permit, or approval issued under those laws that occur on or after October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Joseph St. Peter, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, RCC–12, Mail Stop 10, 1200 New Jersey Ave. SE., Washington, DC 20590 (telephone 202–493–6047), *joseph.st.peter@dot.gov.*

SUPPLEMENTARY INFORMATION:

Amendments to the Statutory Civil Penalty Provisions

Title III of Division C of MAP–21 (Pub. L. 112–141)—the Hazardous Materials Transportation Safety Improvement Act of 2012–revises the maximum and minimum civil penalties for violation of Federal hazardous materials transportation laws at 49 U.S.C. ch. 51 (Federal hazmat laws) or a regulation, order, special permit, or approval issued under the Federal hazmat laws (including the regulations at 49 CFR subtitle B, chapter I, subchapters A (Hazardous Materials and Oil Transportation) and C (Hazardous Materials Regulations)). *See* Sec. 33010 of MAP–21, amending 49 U.S.C. 5123. FRA is revising all references to the maximum and minimum civil penalties in its regulations and guidelines in order to reflect the following statutory changes:

—The maximum civil penalty was increased from $50,000 to $75,000 for a knowing violation and from $100,000 to $175,000 if the violation results in death, serious illness or severe injury to any person, or substantial destruction of property.

—The minimum civil penalty of $250 was eliminated, except that a minimum civil penalty of $450 still applies to a violation related to training.

Revisions to Civil Penalty Assessment Guidelines

FRA's hazardous material transportation enforcement civil penalty guidelines are published in appendix B to 49 CFR part 209, to provide the regulated community and the general public with information concerning the manner in which FRA generally begins its hazmat penalty assessment process and the types of information that respondents in enforcement cases should provide to justify reduction of proposed penalties. These guidelines were first published in the **Federal Register** on July 25, 1996 in response to a request contained in Senate Report 103–150 that accompanied the Department of Transportation and Related Agencies Appropriations Act of 1994. 61 FR 38644. These guidelines are periodically updated, and FRA most recently published revisions to them on July 27, 2010, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461, note). 75 FR 43840.

In this final rule, FRA is revising all references to the maximum and minimum civil penalties published in appendix B to 49 CFR part 209 in order to reflect the statutory changes of MAP–21.

Statutory Authority

This final rule is published under the authority of 49 U.S.C. 5123, which provides civil penalties for violations of the Federal hazmat laws or a regulation, order, special permit, or approval issued under those laws. The hazardous material transportation regulations are issued by the Pipeline and Hazardous Materials Safety Administration. 49 CFR 1.97(b). Responsibility for the enforcement of the Federal hazmat laws and regulations primarily in instances where violations involve railroads and those entities that ship by rail has been delegated to FRA. 49 CFR 1.89(j). This rule revises references in FRA's regulations to reflect revisions to the civil penalty provisions in the Hazardous Materials Transportation Safety Improvement Act of 2012. The amendments to the statutory provisions became effective on October 1, 2012, and FRA is implementing these amendments within respect to violations that occur on or after that date.

Public Participation

FRA is proceeding to a final rule without providing a notice of proposed rulemaking or an opportunity for public comment. Public comment is unnecessary because, in making these revisions, FRA is not exercising discretion in a way that could be informed by public comment. As such, notice and comment procedures are ''impracticable, unnecessary, or contrary to the public interest'' within the meaning of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B). FRA is issuing these revisions as a final rule applicable to all hazardous material civil penalty cases under its authority to cite for violations that occur on or after October 1, 2012.

Regulatory Impact

A. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing policies and procedures and determined to be non-significant under Executive Orders 12866 and 13563. Accordingly, this final rule was not reviewed by the Office of Management and Budget

(OMB). Further, this rule is not a significant regulatory action under the Regulatory Policies and Procedures of the DOT because it is limited to a ministerial act on which the agency has no discretion. 44 FR 11034. The economic impact of the final rule is minimal to the extent that preparation of a regulatory evaluation is not warranted.

B. Regulatory Flexibility Act and Executive Order 13272

FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This rule applies to shippers and carriers of hazardous material and persons who manufacture, mark, certify, or sell packagings, containers, and packaging components as qualified for use in transporting hazardous materials in commerce, some of whom are small entities. However, there is no economic impact on any person who complies with the Federal hazmat laws and the regulations, orders, special permits, and approvals issued under that law.

C. Federalism Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''), and the President's May 20, 2009 memorandum on ''Preemption'' (74 FR 24693, May 22, 2009). As amended in 2005, 49 U.S.C. 5125(h) provided that the preemption provisions in Federal hazmat laws do ''not apply to any * * * penalty * * * utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.'' Accordingly, this final rule does not have any preemptive effect on State, local, or Indian tribe enforcement procedures and penalties, and preparation of a federalism assessment is not warranted.

D. Compliance With the Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of [$140,800,000 or more (as adjusted for inflation)] in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. This final rule will not result in the expenditure, in the aggregate, of $140,800,000 or more in any one year by State, local, or Indian Tribal governments, or the private sector, and thus preparation of such a statement is not required.

E. Environmental Assessment

There are no significant environmental impacts associated with this final rule.

F. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). According to definitions set forth under the Executive Order, there will be no significant energy action as a result of the issuance of this final rule.

G. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

H. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

I. Privacy Act

Anyone is able to search the electronic form of any comments or other written communications received into any of FRA's dockets, by the name of the individual submitting the comment or other written communication (or signing the comment or other written communication, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov, or you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

List of Subjects in 49 CFR Part 209

Administrative practices and procedures, Hazardous materials transportation, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

In consideration of the foregoing, chapter II, subtitle B of title 49 of the Code of Federal Regulations is amended as follows:

PART 209—[AMENDED]

■ 1. The authority citation for part 209 is revised to read as follows:

Authority: 49 U.S.C. 5123, 5124, 20103, 20107, 20111, 20112, 20114; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. Revise § 209.103 to read as follows:

§ 209.103 Minimum and maximum penalties.

(a) A person who knowingly violates a requirement of the Federal hazardous materials transportation laws, an order issued thereunder, subchapter A or C of chapter I, subtitle B, of this title, or a special permit or approval issued under subchapter A or C of chapter I, subtitle B, of this title is liable for a civil penalty of not more than $75,000 for each violation, except that—

(1) The maximum civil penalty for a violation is $175,000 if the violation results in death, serious illness, or severe injury to any person, or substantial destruction of property and

(2) A minimum $450 civil penalty applies to a violation related to training.

(b) When the violation is a continuing one, each day of the violation constitutes a separate offense. 49 U.S.C. 5123.

(c) The maximum and minimum civil penalties described in paragraph (a) of this section apply to violations occurring on or after October 1, 2012.

■ 3. In § 209.105, revise the last sentence of (c) to read as follows:

§ 209.105 Notice of probable violation.

* * * * *

(c) * * * In an amended notice, FRA may change the civil penalty amount proposed to be assessed up to and including the maximum penalty amount of $75,000 for each violation, except that if the violation results in death, serious illness or severe injury to any

person, or substantial destruction of property, FRA may change the penalty amount proposed to be assessed up to and including the maximum penalty amount of $175,000.

■ 4. Amend appendix B to part 209 as follows:

■ a. Revise the second sentence of the first paragraph of the introductory text;

■ b. Revise the last sentence of the second paragraph of the introductory text;

■ c. Revise the fifth sentence of the third paragraph of the introductory text;

■ d. Revise the table entry for ''173.24(b)(1) and 173.24(b)(2) and 173.24(f)(1) and 173.24(f)(1)(ii)'';

■ e. Revise the table entry for ''173.24(c)''; and

■ f. Revise footnote 2 to the table.

The revisions read as follows:

Appendix B to Part 209—Federal Railroad Administration Guidelines for Initial Hazardous Materials Assessments

* * * The guideline penalty amounts reflect the best judgment of the FRA Office of Safety Assurance and Compliance (RRS) and of the Safety Law Division of the Office of Chief Counsel (RCC) on the relative severity of the various violations routinely encountered by FRA inspectors on a scale of amounts up to the maximum $75,000 penalty, except the maximum civil penalty is $175,000 if the violation results in death, serious illness or severe injury to any person, or substantial destruction of property, and a minimum $450 penalty applies to a violation related to training. * * * When a violation of the Federal hazardous material transportation law, an order issued thereunder, the Hazardous Materials Regulations or a special permit, approval, or order issued under those regulations results in death, serious illness or severe injury to any person, or substantial destruction of property, a maximum penalty of at least $75,000 and up to and including $175,000 shall always be assessed initially.

* * * In fact, FRA reserves the express authority to amend the NOPV to seek a penalty of up to $75,000 for each violation, and up to $175,000 for any violation resulting in death, serious illness or severe injury to any person, or substantial destruction of property, at any time prior to issuance of an order. * * *

Civil Penalty Assessment Guidelines

* * * * *

49 CFR Section	Description	Guideline amount [2]
*	*	*
173.24(b)(1) and 173.24(b)(2) and 173.24(f)(1) and 173.24(f)(1)(ii).	Securing closures: These subsections are the general ''no leak'' standard for all packagings. Sec. 173.24(b) deals primarily with *packaging* as a whole, while § 173.24(f) focuses on *closures.* Use § 173.31(d) for tank cars, when possible. Cite the sections accordingly, using both the leak/non-leak criteria and the package size considerations to reach the appropriate penalty. *Any actual leak will aggravate the guideline by, typically, 50%; a leak with contact with a human being will aggravate by at least 100%, up to the maximum of $75,000, and up to $175,000 if the violation results in death, serious illness or injury or substantial destruction of property. For intermodal (IM) portable tanks and other tanks of that size range, use the tank car penalty amounts, as stated in § 173.31.*	
	—Small bottle or box	1,000
	—55-gallon drum	2,500
	—Larger container, e.g., IBC; *not* portable tank or tank car.	5,000
	—IM portable tank, cite § 173.24(f) and use the penalty amounts for tank cars: Residue, generally, § 173.29(a) and, loaded, § 173.31(d).	
	—Residue adhering to outside of package (i.e., portable tanks, tank cars, etc.).	5,000
*	*	*
173.24(c)	Use of package not meeting specifications, including required stencils and markings. The most specific section for the package involved should be cited (see below). The penalty guideline should be adjusted for the size of the container. *Any actual leak will aggravate the guideline by, typically, 50%; a leak with contact with a human being will aggravate by at least 100%, up to the maximum of $75,000, and up to $175,000 if the violation results in death, serious illness or injury or substantial destruction of property.*	
	—Small bottle or box.	1,000
	—55-gallon drum.	2,500
	—Larger container, e.g., IBC; *not* portable tank or tank car, *but* this section is applicable to a hopper car..	5,000
	For more specific sections: Tank cars–§ 173.31(a), portable tanks–§ 173.32, and IM portable tanks–§§ 173.32a, 173.32b, and 173.32c.	
*	*	*

[2] A person who knowingly violates the hazardous material transportation law or a regulation, order, special permit, or approval issued thereunder, is subject to a civil penalty of up to $75,000 for each violation, except that the maximum civil penalty for a violation is $175,000 if the violation results in death, serious illness, or severe injury to any person or substantial destruction of property; and a minimum $450 civil penalty applies to a violation related to training. Each day that the violation continues is a separate offense. 49 U.S.C. 5123; 28 U.S.C. 2461, note.

Issued in Washington, DC on February 6, 2013

Joseph C. Szabo,

Administrator.

[FR Doc. 2013–03208 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043–4043–01]

RIN 0648–XC468

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2013 Commercial Accountability Measure and Closure for South Atlantic Vermilion Snapper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector for vermilion snapper in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for vermilion snapper, as estimated by the Science Research Director (SRD), are projected to reach the commercial annual catch limit (ACL) for the January 1 through June 30, 2013 fishing period on February 13, 2013. Therefore, NMFS closes the commercial sector for vermilion snapper in the South Atlantic EEZ on February 13, 2013, and it will remain closed until the start of the July 1 through December 31, 2013, fishing period. This closure is necessary to protect the vermilion snapper resource.

DATES: This rule is effective 12:01 a.m., local time, February 13, 2013, until 12:01 a.m., local time, July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, email: *Catherine.Hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes vermilion snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (commercial quota) for vermilion snapper in the South Atlantic is divided into two, 6-month time periods, and is 315,523 lb (143,119 kg), gutted weight, for the current fishing period, January 1 through June 30, 2013, as specified in 50 CFR 622.42(e)(4)(i).

In accordance with regulations at 50 CFR 622.49(b)(6)(i), NMFS is required to close the commercial sector for vermilion snapper when its commercial ACL (commercial quota) for that portion of the fishing year applicable to the respective commercial ACL (commercial quota) has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL (commercial quota) for South Atlantic vermilion snapper for the January-June fishing period will have been reached by February 13, 2013. Accordingly, the commercial sector for South Atlantic vermilion snapper is closed effective 12:01 a.m., local time, February 13, 2013, until 12:01 a.m., local time, July 1, 2013. The commercial ACL (commercial quota) for vermilion snapper in the South Atlantic is 302,523 lb (137,222 kg), gutted weight, for the July 1 through December 31, 2013, fishing period, as specified in 50 CFR 622.42(e)(4)(ii).

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having vermilion snapper onboard must have landed and bartered, traded, or sold such vermilion snapper prior to 12:01 a.m., local time, February 13, 2013. During the closure, the bag limit specified in 50 CFR 622.39(d)(1)(v), applies to all harvest or possession of vermilion snapper in or from the South Atlantic EEZ, including the bag limit that may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero. During the closure, the possession limits specified in 50 CFR 622.39(d)(2) apply to all harvest or possession of vermilion snapper in or from the South Atlantic EEZ. During the closure, the sale or purchase of vermilion snapper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of vermilion snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, February 13, 2013, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for vermilion snapper would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

The temporary rule has been determined to be not significant for purposes of Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available scientific information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for vermilion snapper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect vermilion snapper since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would likely result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 7, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03199 Filed 2–7–13; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 111220786–1781–01]

RIN 0648–XC451

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is retroactively transferring a portion of its 2012 commercial summer flounder quota to the Commonwealth of Virginia. NMFS is adjusting the quotas and announcing the revised commercial quota for each state involved.

DATES: This rule is effective February 12, 2013. The quota transfer is applicable December 1, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, 978–281–9224.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are in 50 CFR part 648, and require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.102.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i) to evaluate requests for quota transfers or combinations.

North Carolina has agreed to transfer 100,037 lb (45,376 kg) of its 2012 commercial quota to Virginia. This transfer was prompted by summer flounder landings of a number of North Carolina vessels that were granted safe harbor in Virginia due to mechanical failures and hazardous weather, between December 1, 2012, and December 31, 2012, thereby requiring a quota transfer to account for an increase in Virginia's landings that would have otherwise accrued against the North Carolina quota. The Regional Administrator has determined that the criteria set forth in § 648.102(c)(2)(i) have been met. The revised summer flounder quotas for calendar year 2012 are: North Carolina, 1,567,401 lb (710,961 kg); and Virginia, 4,804,130 lb (2,179,117 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 7, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03202 Filed 2–11–13; 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–XC493

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 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 630 of the Gulf of Alaska (GOA). This action is necessary to fully use the 2013 total allowable catch of pollock in Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 8, 2013, through 1200 hrs, A.l.t., March 10, 2013. Comments must be received at the following address no later than 4:30 p.m., A.l.t., February 22, 2013.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2013–0032 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0032,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *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 sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. 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.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. 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, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 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 630 of the GOA under § 679.20(d)(1)(iii) on January 22, 2013 (78 FR 5145, January 24, 2012).

As of February 5, 2013, NMFS has determined that approximately 5,900 metric tons of pollock remain in the A season directed fishing allowance for pollock in Statistical Area 630 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 A season allowance of the 2013 TAC of pollock in Statistical Area 630 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing pollock in Statistical Area 630 of the GOA, effective 1200 hrs, A.l.t., February 8, 2013.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of pollock in Statistical Area 630 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 630of 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 February 5, 2013.

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 630 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 February 22, 2013.

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: February 7, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03200 Filed 2–7–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 29
Tuesday, February 12, 2013

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 319 and 361

[Docket No. APHIS–2008–0071]

RIN 0579–AD47

Importation of Plants for Planting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations on importing plants for planting to add Turkey to the list of countries from which the importation of restricted articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* into the United States is prohibited due to the presence of white rust of Chrysanthemum; to require permits for the importation of any seed that is coated, pelleted, or embedded in a substrate that obscures visibility; to provide for an alternate additional declaration on phytosanitary certificates that accompany articles imported from a country in which potato cyst nematodes are known to occur; to provide conditions for the importation of *Prunus* spp. articles from Canada that address the presence of plum pox potyvirus in that country; and to provide for the importation of *Dianthus* spp. (carnations) from the Netherlands. We are also proposing other changes to update and clarify the regulations and to improve their effectiveness. These changes are necessary to relieve restrictions that appear unnecessary, to update existing provisions, and to make the regulations easier to understand and implement.

DATES: We will consider all comments that receive on or before April 15, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!documentDetail;D=APHIS–2008-0071–0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2008–0071, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0071* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Tschanz, Senior Plant Pathologist, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2179.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of quarantine plant pests. The regulations contained in ''Subpart—Plants for Planting,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), restrict among other things, the importation of living plants, plant parts, and seeds for propagation or planting.

We are proposing to make several amendments to the regulations. Our proposed amendments are discussed below.

Prohibitions and Restrictions on Importation; Disposal of Articles Refused Importation (§ 319.37)

Paragraph (b) of § 319.37 currently provides that, if a regulated article is denied entry into the United States for non-compliance with the regulations, the importer must destroy, ship to a point outside the United States, or apply treatments or other safeguards to the article in the manner and within the time period prescribed by an inspector, to prevent the introduction into the United States of quarantine pests. The paragraph further specifies that, in choosing which actions to order and in setting the time limit for the actions, the inspector shall consider the degree of pest risk presented by the quarantine pest associated with the article, whether the article is a host of the pest, the types of other host materials for the pest in or near the port, the climate or season at the port in relation to the pest's survival range, and the availability of treatment facilities for the article.

However, there are often other factors that an inspector considers in determining what remedial measures to order. For example, an inspector may consider whether the manifest accompanying the article is missing or incomplete, thus making it difficult to determine the origin or contents of the shipment, or whether the article is considered a high-risk pathway for the introduction of a quarantine pest into the United States. To clarify, we would amend the paragraph to specify that, in addition to the considerations already listed, an inspector may also consider any other factors pertaining to the risk that the article may present to plants, plant parts, or plant products within the United States that he or she considers necessary in order to choose an action and set a time limit.

Definitions (§ 319.37–1)

Currently, we define *bulb* in § 319.37–1 of the regulations as: ''The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.''

We have determined that this definition needs to be modified.

Primarily, the current definition conflates two types of plant parts, bulbs and dormant herbaceous perennials, that are, in fact, distinct. Bulbs, which include bulbils, corms, and cormels, are the storage organ for a plant's reproductive structure while the plant is in a state of dormancy. Within the context of our enforcement of the regulations, we consider a bulb to remain a bulb until such time as environmental conditions induce it to produce shoots. At that time, we no longer regulate it as a bulb, but instead regulate it as a plant.

Dormant herbaceous perennials, which include rhizomes, tubers, tuberous roots, pips, fleshy roots,

divisions, and underground fleshy growths, are the parts of a herbaceous perennial plant that remain after the above-ground parts of the plant have died back to the earth at the end of a growing season, and while the perennial remains dormant. We consider a dormant herbaceous perennial to include all plant parts of this dormant plant, except the bulb. As we do for bulbs, we consider these plant parts to be dormant herbaceous perennials until such time as they start to sprout; at that point we consider them plants.

To reflect this distinction, we would revise the definition of *bulb* to read as follows: ''The storage organ of a plant that serves as the plant's sexual structure during dormancy. Examples include bulbs, bulbils, bulblets, corms, and cormels. For purposes of this subpart, a bulb remains a bulb until such time as environmental conditions induce it to produce shoots. It is then considered a plant.''

We would define *dormant herbaceous perennial* as: ''Except for bulbs, the portions of an herbaceous perennial that remain after the above-ground parts of the plant have died back to the earth after the growing season and the plant remains dormant. Examples include rhizomes, tubers, tuberous roots, pips, fleshy roots, divisions, and underground fleshy growths. For purposes of this subpart, dormant herbaceous perennials remain dormant herbaceous perennials until such time as environmental conditions induce them to sprout. They are then considered plants.''

Several of our proposed amendments to the regulations in this rule would draw a distinction between bulbs and dormant herbaceous perennials. Adding a definition of *dormant herbaceous perennial* to the regulations would clarify the nature of the distinction.

Currently, the definition of *from* provides, as a general rule, that an article is ''from'' the country or locality in which it is grown. However, the definition does provide that an article that was not grown in Canada may be considered from Canada, subject to certain conditions. One of these conditions is that the article must never have been grown in a country from which it would be a prohibited article.

This condition presupposes that there is only one category of articles, prohibited articles, whose importation into the United States is not authorized under the regulations. However, in a final rule published in the **Federal Register** on May 27, 2011 (76 FR 31172–31210, Docket No. APHIS–2006–0011), we established another category, articles whose importation into the United States is not authorized pending pest risk analysis. Accordingly, we would amend the definition of *from* to clarify that, for an article to be from Canada, it must never have been grown in a country from which it would be a prohibited article or an article whose importation into the United States is not authorized pending pest risk analysis.

Additionally, we would revise the definition of *phytosanitary certificate of inspection,* to make it consistent with the definition provided in ''Subpart—Fruits and Vegetables'' (§§ 319.56–1 to 319.56–58). That definition, found in § 319.56–2, specifies that all phytosanitary certificates of inspection must be consistent with the model phytosanitary certificate provided by the International Plant Protection Committee, of which the United States is a contracting party, and more accurately describes the intent and content of phytosanitary certificates of inspection.

We would, however, retain a provision in the current definition that all phytosanitary certificates of inspection for plants for planting must be issued not more than 15 days prior to shipment of restricted articles. This provision is necessary because the potential for infestation after phytosanitary inspection is, generally, greater for plants for planting than it is for fruits and vegetables, and often increases if the time period between inspection and shipment is pronounced.

Finally, we would add a definition of *Administrator.* That term is used frequently throughout the regulations, but is not defined. Our proposed definition, ''the Administrator of the Animal and Plant Health Inspection Service (APHIS), or any person authorized to act for the Administrator,'' would be identical to the definition of *Administrator* found in other parts of Chapter III of 7 CFR, and is the definition most commonly associated with the term *Administrator* by regulated entities.

Prohibited Articles (§ 319.37–2)

The table in paragraph (a) of § 319.37–2 lists prohibited articles. We are proposing several changes to entries in the table.

First, we would revise the entries for ''*Chrysanthemum* spp. (chrysanthemum, includes *Dendranthema* spp.),'' ''*Leucanthemella serotina,*'' and ''*Nipponanthemum nipponicum,*'' which prohibit the importation of regulated articles of these genera from countries in which Chrysanthemum white rust (CWR), a pest of concern for *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum,* is known to exist. In order to facilitate regulatory compliance, we would amend the entries for *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* to specify that articles of these species are prohibited from all countries, unless they meet the conditions of §§ 319.37–5 and 319.37–7. In §§ 319.37–5 and 319.37–7, we would update the lists of regions of the world from which *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* articles may not be imported to list continents, followed by countries, and to remove references to lines of longitude and latitude.

In amending §§ 319.37–2, 319.37–5, and 319.37–7 in this manner, we would expand the current prohibitions to include all of Europe and Asia, including Turkey. Although the current regulations do not list Turkey as a country in which CWR is known to exist, in February and March 2007, there was a severe outbreak of the disease in the cut flower-producing regions of Turkey. Since the outbreak, we have considered Turkey to be a country in which CWR is known to occur, and have imposed restrictions on the importation of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* plants from Turkey in order to prevent the introduction of CWR into the United States. Adding Turkey to the list of countries where CWR is known to exist would codify those restrictions.

We would amend the entries for ''*Acer* spp. (maple) (except *Acer palmatum* and *Acer japonicum* meeting the conditions for importation in § 319.37–5(m)'', ''*Chaenomeles* (flowering quince) spp. not meeting the conditions for importation in § 319.37–5(b)'', ''*Cydonia* (quince) spp. not meeting the conditions for importation in § 319.37–5(b)'', ''*Malus* spp. (apple, crabapple) not meeting the conditions for importation in § 319.37–5(b)'', and ''*Vitis* spp. (grape) not meeting the conditions for importation in § 319.37–5(b).'' Conditions governing the importation of restricted articles of these species into the United States are found not only in § 319.37–5, but also in § 319.37–7. (We would make parallel changes to §§ 319.37–5 and 319.37–7.)

We would also make several changes to update the nomenclature of plant species listed in the table. First, there are currently entries for *Berberis, Mahoberberis,* and *Mahonia* spp. that, apart from the nomenclature used for the prohibited genera, are otherwise identical. However, the international taxonomic community currently does not consider *Mahoberberis* or *Mahonia*

to differ from *Berberis.* We would therefore remove each entry for ''*Mahoberberis''* or ''*Mahonia''* and add ''(includes *Mahoberberis* and *Mahonia* spp.)'' to the entries for ''*Berberis* spp.''

For a similar reason, we would also remove the entries for ''*Chrysalidocarpus* spp. (butterfly palm)'' and ''*Neodypsis* spp. (palm),'' and replace them with a single entry for ''*Dypsis* spp. (butterfly palm).'' Finally, we would remove the entry for ''*Arikuryoba* spp. (arikury palm)'', and replace it with an entry for ''*Syagrus schizophylla* (Mart.) Glassman (arikury palm).''

Additionally, we would update the entry for *Salix* spp. (willow). Currently, the entry prohibits the importation of *Salix* spp. plants from Belgium, Germany, Great Britain, Japan, and the Netherlands to prevent the introduction of *Erwinia salicis* (Day) Chester, or Watermark disease. However, *Erwinia salicis* (Day) Chester is now considered a synonym for *Brenneria salicis* (Day) Hauben et al. The updated entry would specify that Watermark disease is known both as *Brenneria salicis* (Day) Hauben et al. and as *Erwinia salicis* (Day) Chester.

(Please note that these proposed changes would pertain only to nomenclature. We are not proposing to remove or otherwise alter the existing prohibitions on the importation of plants of these genera.)

Permits (§ 319.37–3)

Section 319.37–3 lists certain categories of restricted articles that may only be imported into the United States following issuance of a written permit by APHIS. It also contains the process for obtaining a permit, the conditions that will lead us to withdraw a permit that we have issued, and the circumstances under which we may issue an oral permit. We would make several additions, deletions, re-orderings, and other amendments to paragraph (a); update paragraph (b); and make nonsubstantive changes to paragraph (d).

Paragraph (a) lists restricted articles, currently found in subparagraphs (a)(1) through (a)(19), that may be imported into the United States only after issuance of a written permit.

Currently, these subparagraphs are arranged according to when they were added to the regulations, and therefore are not in any particular order. Thus, one of the broadest categories, which requires permits for most small lots of seed imported into the United States, is subparagraph (a)(18), while one of the most limited, which applies only to articles of *Corylus* spp. that are from certain provinces in Canada and that are destined to Oregon or Washington, is subparagraph (a)(14).

From time to time, this lack of order has led to inadvertent oversights by importers, who have sought importation of an article into the United States without the required permit solely because the category the article belonged to was not one of the more prominent subparagraphs. Therefore, we would reorder the subparagraphs to place the broadest categories first.

We would redesignate current subparagraph (a)(5), which requires permits for the importation of lots of 13 or more articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or locality except Canada, as subparagraph (a)(1). (Current subparagraph (a)(1), which requires permits for articles subject to treatment and other requirements of § 319.37–6, would be redesignated as subparagraph (a)(6).) We would also amend current subparagraph (a)(5) to clarify that one of the exemptions within it applies both to bulbs and to dormant herbaceous perennials, provided that they have been precleared and belong to a plant taxon approved by APHIS for preclearance, and another of the exemptions applies only to seeds of herbaceous plants.

The first amendment is necessary to codify a long-standing APHIS policy and operational practice. Bulbs and dormant herbaceous perennials that are precleared have been inspected by an inspector in the country from which they were exported in accordance with an APHIS-approved preclearance program and have been determined to meet the conditions for importation of the articles into the United States. Hence, prior to their arrival in the United States, they have already been determined not to present a risk of introducing or disseminating plant pests within the United States; requiring a permit to be issued in order for the articles to be imported would be unnecessary. However, bulbs and dormant herbaceous perennials that have not been precleared have not necessarily been produced under such conditions or subject to such inspections. Hence a risk basis exists for requiring such articles to be accompanied by permits, and, operationally, we have long done so.

The latter amendment is necessary in order to distinguish this exemption from the provisions of current subparagraph (a)(6), discussed immediately below, which otherwise might appear in tension with the exemption.

We would redesignate current subparagraph (a)(6), which requires permits for the importation of seeds of trees or shrubs from any country or locality except Canada, as paragraph (a)(2). To distinguish the provisions of this subparagraph from the exemption in current subparagraph (a)(5), we would also amend this subparagraph to clarify that it pertains to seeds of non-herbaceous plants, such as trees and shrubs.

We would remove current subparagraph (a)(3), which requires permits for the importation of bulbs of *Allium sativum* (garlic), *Crocosmia* spp. (montebretia), *Gladiolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily) from New Zealand. There have historically been no importations of lots of fewer than 13 bulbs of these species from New Zealand into the United States, and New Zealand does not have a preclearance program. Hence, practically speaking, we consider the restrictions of this subparagraph to duplicate those of proposed subparagraph (a)(1).

In place of current subparagraph (a)(3), proposed subparagraph (a)(3) would list a new category of articles. Section 319.37–5 of the regulations lists certain categories of restricted articles that must be accompanied by a phytosanitary certificate of inspection containing an additional declaration that the articles are free of specified quarantine pests or have been produced in accordance with certain requirements. Operationally, we have long required that such articles be accompanied not only by a phytosanitary certificate, but also by a written permit. The permit makes it clear to inspectors at a port of first arrival that APHIS considers the phytosanitary certificate to provide adequate assurance that the article is free of quarantine pests and that, accordingly, APHIS authorizes the importation of the article into the United States. Proposed subparagraph (a)(3) would codify this operational practice.

We would remove current subparagraph (a)(4), which requires permits for the importation of articles of *Cocos nucifera* (coconut) and articles (except seeds) of *Dianthus* spp. (carnation, sweet-william) from any country or locality except Canada. Only two countries, Jamaica and Costa Rica, are authorized to export coconuts to the United States under the regulations, and there are no documented importations of lots of fewer than 13 coconuts from either country into the United States. In addition, with very limited exceptions, importations of *Dianthus* spp. require postentry quarantine in accordance with § 319.37–7. Hence this subparagraph

substantively duplicates the restrictions of proposed subparagraphs (a)(2) and (a)(4).

We are proposing to add a new subparagraph (a)(7). This subparagraph would codify a long-standing APHIS policy and operational protocol by requiring permits for the importation of seed of herbaceous plants for planting that is coated, pelleted, or embedded in a substrate that obscures visibility. Visual identification and inspection of coated, pelleted, or embedded seed is often difficult or practically impossible. In the absence of an accompanying permit, it would therefore be reasonable for an inspector at a port of first arrival to consider the material to present an unknown risk to plants, plant parts, or plant products within the United States, and to prohibit or greatly restrict its importation. Hence, for the last several years, we have required permits to be issued for the importation of such seed so that the permit and its conditions may serve as the primary means of identifying the articles at the port of first arrival, and so that importers are provided with the specific importation requirements for such seed.

(On a related matter, 7 CFR part 361 contains regulations that APHIS has issued pursuant to the Federal Seed Act (7 U.S.C 1551–1661) regarding the importation of seed of certain fruits, vegetables, and herbs into the United States. Section 361.2 contains general restrictions on the importation of such seed. Paragraph (d) of § 361.2 provides that, except for Canadian-origin seed, if the seed is coated or pelleted, it must be accompanied by an officially drawn and sealed sample that was drawn before the seed was coated or pelleted. That paragraph, and the other buttressing paragraphs in that section, are written in a manner by which one could construe paragraph (d) of § 361.2 as providing the sole restrictions on the importation of coated or pelleted seed in 7 CFR. However, the importation of such seed has long been subject to the policy and operational protocol referenced in the preceding paragraph. Hence we would amend paragraph (d) of § 361.2 to clarify that it is meant to work in conjunction with proposed paragraph (a)(7) of § 319.37–3. In so doing, we would also extend the scope of that paragraph to seed that is embedded in a substrate that obscures visibility.)

In our proposed revision, subparagraphs (a)(8) through (a)(10) would pertain to certain types of articles from Canada for which permits are required. Current subparagraph (a)(7), which requires permits for the importation of articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), *Cydonia* spp. (quince), *Chaenomeles* spp. (flowering quince), and *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Canada, would be redesignated as subparagraph (a)(8). We would also amend that subparagraph to include articles (except seeds) of *Vitis* spp. (grape). This amendment is necessary because the paragraph is meant to work in conjunction with paragraph (b)(1) of § 319.37–5, which requires phytosanitary certificates for the importation of restricted articles of these species from Canada. However, while paragraph (b)(5) of § 319.37–5 currently requires restricted articles of *Vitis* spp. from Canada to be accompanied by a phytosanitary certificate, articles of *Vitis* spp. are not currently listed in subparagraph (a)(7) of § 319.37–3.

In the current regulations, subparagraphs (a)(8) through (a)(14) and (a)(16) provide that permits must be issued prior to the importation of certain restricted articles into the United States only if those articles are destined to certain States.

We developed these subparagraphs in coordination with State departments of agriculture. In order for a State to be listed in one of the subparagraphs, it had to have promulgated State quarantine regulations regarding the movement of the restricted article into the State in order to prevent the spread of a quarantine pest for which the article is a host, and had to state that notification regarding the importation of the article into the State was necessary for the purposes of enforcing these quarantine regulations. APHIS would then submit a copy of the permit to the State in order to provide such notification.

Several of the States currently listed in these subparagraphs have rescinded the quarantine regulations that led them to request notification, or have stated to APHIS that notification is no longer necessary for purposes of enforcing their regulations. In addition, for those States that still request notification, we have long provided such notification through other means and methods. Hence we consider these subparagraphs to no longer be necessary, and are proposing to remove them from the regulations.

Paragraph (b) of § 319.37–3 contains the process for obtaining a permit. It states that applications for permits should be submitted to the Permits, Registrations, Imports and Manuals branch of APHIS' Plant Protection and Quarantine (PPQ) program. However, due to organizational restructuring, that branch no longer exists, and permitting of plants, plant parts, and plant products is no longer under the purview of only one branch within PPQ. Hence we would amend paragraph (b) to provide that applications should be addressed directly to PPQ. We would also amend a footnote in the paragraph to specify that applications may be obtained via the Internet at *http://www.aphis.usda.gov/plant_health/permits/index.shtml.* That Web site provides eAuthenticated persons with access to ePermits, APHIS' secure site for online permit applications.

We are proposing to make nonsubstantive editorial changes to paragraph (d) of the section. Specifically, we would remove references to the Deputy Administrator of PPQ and replacing them with references to the Administrator of APHIS, and we would replace certain legal terms of art in the paragraph with more colloquial terms that express the same concept.

Inspection, Treatment, and Phytosanitary Certificates of Inspection (§ 319.37–4)

Paragraph (a) of § 319.37–4 requires that most restricted articles imported into the United States be accompanied by a phytosanitary certificate of inspection, and specifies certain types of general information required for such certificates. Subparagraphs (a)(1) through (a)(4) list categories of restricted articles that we allow to be imported into the United States without a phytosanitary certificate or with documentation in lieu of a phytosanitary certificate.

Currently, paragraph (a) does not provide specific phytosanitary certificate requirements for plants that have been grafted, budded, or otherwise contain interpolated plant parts. However, as an operational policy, we have long asked that phytosanitary certificates for such plants list the identity of any parts of the plant (e.g., scion, rootstock, interstem) that belong to restricted taxa to the lowest regulated taxonomic classification; this is because all restricted taxa within the regulations are known to be a host of at least one quarantine pest and restricted taxa do not lose this host status by being grafted, budded, or interpolated. We would amend paragraph (a) to codify this policy. We would also make nonsubstantive editorial changes to the paragraph to make its relationship with the following paragraphs in the section clearer.

Subparagraph (a)(4) of § 319.37–4 exempts bulbs from the Netherlands from having to be accompanied by a

phytosanitary certificate, provided that they are accompanied by a special certificate that lists a serial number, the scientific name of the bulb, the country of its origin, and the date on which the special certificate expires. This paragraph is intended to pertain only to a small subset of bulbs that are sold in small packages to international travelers visiting the Netherlands, and that cannot feasibly be precleared and inspected prior to export; commercial quantities of bulbs from the Netherlands are subject to the restrictions of paragraph (a) of § 319.37–5, which requires the bulbs to be precleared by the national plant protection organization (NPPO) of the Netherlands and accompanied by a phytosanitary certificate.[1] We would make editorial changes to the paragraph to clarify its scope accordingly.

Paragraph (b) of § 319.37–4 provides for inspection of restricted articles. The paragraph currently states that restricted articles imported into the United States may be sampled and inspected by an inspector at the port of first arrival, or alternatively, under preclearance agreement arrangements in the country where the article was grown. The language of this paragraph has occasionally proven problematic, insofar as it is silent regarding the responsibilities of the person importing the article, and can be construed to suggest that inspections are entirely random, and initiated solely at the request of the inspector. This is not the case; all restricted articles must be presented for inspection by the importer. The inspector then determines whether to sample and inspect the articles. We would amend paragraph (b) to clarify the responsibilities of the importing party.

Special Foreign Inspection and Certification Requirements (§ 319.37–5)

Section 319.37–5 lists restricted articles that may be imported into the United States only if the phytosanitary certificate required by § 319.37–4 of the regulations contains an additional declaration that the restricted articles are free of specified quarantine pests or have been produced in accordance with certain requirements. We are proposing a number of changes to this section.

Importation of Restricted Articles from Countries in which Potato Cyst Nematode is Known to Exist

Currently, paragraph (a) of the section lists countries in which potato cyst nematodes (*Globodera rostochiensis* (Woll.) Behrens and *G. pallida* (Stone) Behrens, PCN) are known to exist, and requires restricted articles from those countries to be accompanied by a phytosanitary certificate which contains an additional declaration that the article was grown on land which has been sampled and microscopically inspected by the NPPO of the country in which it was grown within 12 months preceding issuance of the certificate and found free from PCN. The paragraph currently exempts restricted seeds, unrooted cuttings, articles collected from the wild, and articles solely for food, analytical, or manufacturing purposes from these additional declaration requirements.

We would remove the exemption for articles collected from the wild. Such articles may not only be infested with PCN, but also pose an unknown risk of being contaminated with other quarantine pests.

In addition, we would add an alternate additional declaration option. Several countries in which PCN are known to exist have stated that the additional declaration required under paragraph (a) pertains only to restricted articles that are grown in soil or in contact with soil, and thus the paragraph effectively prohibits the importation of most restricted articles that are grown in media other than soil and in a protected environment that precludes contact with soil (e.g., a greenhouse with a concrete floor) within a country in which PCN are known to exist. Since PCN are soil-borne pests, however, these countries have stated that importation of articles grown in such conditions should be allowed. We agree. Therefore, we would allow restricted articles to be imported from the countries listed in paragraph (a) if they are accompanied by a phytosanitary certificate with the current additional declaration, or with an additional declaration that the articles have been grown within a secure environment in a production area that is free of PCN, in a soilless growing medium, or *in vitro,* within a secure environment, and have not been grown in soil nor come in contact with soil.

We would also update the list of countries in which PCN are known to exist. Since we last updated the listed countries in a final rule published in the **Federal Register** on August 6, 2007 (72 FR 43503–43524, Docket No. 03–002–3), PCN have been discovered in Albania, Falkland Islands, Indonesia, Libya, Liechtenstein, Madeira, Mallorca, Romania, Sierra Leone, Sri Lanka, and Turkey. In addition, while the regulations currently consider PCN to exist within Canada only in Newfoundland and a portion of the Municipality of Central Saanich in the Province of British Columbia, PCN were discovered in Quebec in 2006 and Alberta in 2007, at significant distances from all previous detections of PCN. Moreover, since the movement of soil within Canada has historically not been stringently regulated, there is a significant possibility of future detections of PCN in other areas of Canada. Hence, we would amend the list to consider PCN to exist in all areas of Canada that are regulated by the NPPO of Canada for PCN. (We would also make parallel changes to paragraph (b)(2) of § 319.37–8, which contains restrictions on the growing media that may accompany a restricted article imported from an area of Canada that is regulated for PCN.)

Finally, we would restructure paragraph (a) so that it more closely resembles other paragraphs within § 319.37–5 that contain an extensive list of countries, which would make that paragraph easier to read.

Importation of Restricted Articles of the Genera *Chaenomeles, Cydonia, Malus, Prunus, Pyrus,* and *Vitis*

The importation of all articles other than seed of the genera *Chaenomeles, Cydonia, Malus, Prunus, Pyrus,* and *Vitis* from anywhere in the world is prohibited in § 319.37–2 unless those articles are imported in accordance with paragraph (b) of § 319.37–5. In addition, the importation of seed of *Prunus* spp. seed from anywhere in the world is prohibited in § 319.37–2 unless the seed is imported in accordance with paragraph (j) of § 319.37–5.

Paragraph (b)(1) of § 319.37–5 currently authorizes the importation into the United States of restricted articles (except seeds) of *Chaenomeles, Cydonia, Malus, Prunus, Pyrus,* and *Vitis* spp. from Belgium, Canada, France, Germany, Great Britain, or the Netherlands, if they are accompanied by a phytosanitary certificate with an additional declaration that the articles were grown in a nursery and found by the NPPO of the country in which they were grown to be free of certain plant diseases, or alternatively, with an additional declaration that those plant diseases do not occur in that country. Paragraph (b)(3) of § 319.37–5 lists the relevant plant diseases.

Paragraph (b)(2) of § 319.37–5 is meant to complement paragraph (b)(1), and contains what are intended to be conditions for the importation of budwood of certain *Prunus* species that are susceptible to plum pox potyvirus from Belgium, France, Germany, Great

[1] For a discussion of the scope of subparagraph (a)(4), see the December 15, 2005, proposed rule to add the subparagraph to the regulations (70 FR 74215–74235, Docket No. 03–002–1).

Britain, or the Netherlands. The restrictions in this paragraph are necessary because the restrictions of paragraph (b)(1), in themselves, do not adequately address the risk that plum pox potyvirus could follow the pathway of susceptible *Prunus* spp. budwood that is imported from these five countries.

In a similar manner, paragraph (j)(1) of § 319.37–5 contains conditions for the importation of seed of *Prunus* spp. that are susceptible to plum pox potyvirus from Belgium, France, Germany, Great Britain, or the Netherlands. This paragraph is necessary because plum pox potyvirus can be transmitted by seed, and therefore could follow the pathway of *Prunus* spp. seed imported from these five countries.

Paragraph (j)(2) complements paragraph (j)(1), and provides additional conditions for the importation of seed of these *Prunus* spp. from all other countries, unless plum pox potyvirus is known to exist in that country.

We have determined that these paragraphs need to be both consolidated and revised. A number of considerations have led us to this conclusion. First, although paragraph (b)(2) is intended to apply solely to budwood of *Prunus* spp. susceptible to plum pox potyvirus, the regulations do not specify this restriction, but, rather, refer simply to species of *Prunus.* When we added the provisions in this paragraph to the regulations in 1980, the only article for which Belgium, France, Germany, Great Britain, or the Netherlands sought importation into the United States was budwood produced in pest-exclusionary nurseries that were operated by the NPPO of the respective country or that participated in a fruit tree certification program conducted by the NPPO of the country, and that had also been approved by APHIS. Thus, at that time, the scope of the paragraph was clear to the regulated entities to which it pertained.

However, since 1980, production of *Prunus* spp. articles other than budwood within those countries and demand for such *Prunus* spp. articles within the United States have both increased significantly. Correspondingly, the original intent and limited scope of the paragraph has become more difficult to understand and apply. Hence, some importers have considered paragraphs (b)(1) and (b)(2) to provide alternative conditions for the importation of *Prunus* spp. articles from Belgium, France, Germany, Great Britain, or the Netherlands, while other importers have considered paragraphs (b)(2) and (j)(1) to provide alternative conditions for the importation of *Prunus* spp. seed from these same countries.

Second, since paragraphs (b) and (j) were last updated, plum pox potyvirus has been detected in Canada. Accordingly, we need to amend the regulations to specify conditions regarding the importation of *Prunus* spp. from Canada that reflect the presence of this disease within Canada.[2] In addition, the list in paragraph (j)(2) of regions and countries in which plum pox potyvirus is known to exist does not reflect the detection of plum pox potyvirus in Argentina, Chile, and Japan.

Third, paragraph (b)(1) needs to be rewritten in a manner which makes it clear that the paragraph pertains only to species of *Prunus* that are not susceptible to plum pox potyvirus, and is not intended to address the risk associated with the importation of species that are susceptible to the disease.

Fourth, paragraph (b)(1) is currently silent with regard to grafted articles, or articles in which plant parts from one plant are inserted into those of another plant for purposes of propagation. This has led several importers to assume that grafted articles need only be accompanied by a permit addressing the relevant diseases of the rootstock (the plant part selected for its roots), the scion (the plant part selected for propagation), or interstem (an intermediate plant part grafted between the rootstock and the scion). However, it has long been PPQ's policy that the quarantine pest risk for a grafted article includes both pests of the rootstock and those of the scion and any interstem inserted between the rootstock and scion; this is because plant parts remain hosts of plant pests particular to their species even after these parts are grafted.

Finally, the list of plant diseases found in paragraph (b)(3) of the section uses outdated taxonomy and does not include several new quarantine pests of *Malus* spp., one quarantine pest of *Malus, Prunus,* and *Pyrus* spp., and one quarantine pest of *Prunus* spp. that have been discovered in recent years. Accordingly, we would amend paragraph (b)(3) by adding entries for apple fruit crinkle apscaviroid, apple dimple fruit apscaviroid, apple scar skin apscaviroid, *Monilinia polystroma,* and apricot pseudo-chlorotic leaf spot trichovirus.

Similarly, we would update the entries for apple proliferation agent, pear blister canker virus, apple green crinkle virus, apple chat fruit virus, plum pox (=Sharka) virus, cherry leaf roll virus, cherry rusty mottle (European) agent, apricot chlorotic leaf roll agent, plum bark split virus, arabis mosaic virus, raspberry ringspot virus, tomato blackring virus, strawberry latent ringspot virus, quince yellow blotch agent, apple ringspot virus, grapevine leaf roll agent, flavescence-doree agent, and black wood agent (bois-noir) to reflect the current nomenclature for the pathogens used by the U.S. taxonomic community. For reasons specified below, we would also redesignate the paragraph as paragraph (b)(5).

We would amend paragraph (b)(1) to reflect this redesignation, to clarify that it provides mitigations only for articles of *Prunus* species that are not susceptible to plum pox potyvirus, and to provide that, if the scion, interstem, rootstock, or any other plant part of the finished plant that is offered for importation belongs to a regulated taxon, the additional declaration in the phytosanitary certificate that accompanies the article must both list these plant parts and address the quarantine pests and related restrictions associated with that taxon.

We would amend paragraph (b)(2) to specify that it pertains only to budwood of *Prunus* spp. susceptible to plum pox potyvirus and grown in Belgium, France, Germany, Great Britain, or the Netherlands under pest-exclusionary conditions within an APHIS-approved facility that is part of a nuclear stock certification program. We would also make nonsubstantive editorial changes to improve the paragraph's clarity.

In our proposed revision, paragraph (b)(3) of § 319.37–5 would establish conditions for importation from Canada of restricted articles, except seed, of *Prunus* spp. that are susceptible to plum pox potyvirus. The conditions for importation of the species would be those for the importation of *Prunus* spp. that are not susceptible to plum pox potyvirus—the species covered by our proposed revisions to paragraph (b)(1) of § 319.37–5—and one additional condition: We would require that the article be grown in an area that has been surveyed and found free of plum pox potyvirus according to a surveying protocol mutually agreed upon by APHIS and the NPPO of Canada. Finally, because it is common for plants for planting to be produced in countries other than Canada and shipped to Canada for export to the United States,

[2] Paragraph (b)(1) of § 319.37–5 does currently regulate *Prunus* spp. for plum pox (=Sharka) potyvirus. However, as noted above, the restrictions of this current paragraph do not address the risk that plum pox potyvirus could follow the pathway of *Prunus* spp. budwood or seed that is imported into the United States.

paragraph (b)(3) would specify that if any plant part of an article of *Prunus* spp. susceptible to plum pox potyvirus is not from Canada, but rather a third country, that article would have to meet the entry requirements of the subpart as if the article had been directly imported into the United States from that third country.

We recognize that these conditions would be somewhat less restrictive than the conditions for the importation of budwood that are contained in paragraph (b)(2) of § 319.37–5. However, we consider less restrictive conditions to be warranted because, while plum pox potyvirus is known to be widely prevalent in Belgium, France, Germany, Great Britain, and the Netherlands, in Canada, plum pox potyvirus is only known to exist in a relatively small area within the Province of Ontario.

We would redesignate current paragraph (j)(1) as paragraph (b)(4)(i). We would specify that the paragraph applies to Canada, as well as Belgium, France, Germany, Great Britain, and the Netherlands. We would also make nonsubstantive editorial changes to the paragraph to make its relation to paragraphs (b)(1) and (b)(2) clearer.

In a similar manner, we would redesignate paragraph (j)(2) as paragraph (b)(4)(ii), would add Argentina, Canada, Chile, and Japan to the list of areas in which plum pox potyvirus is known to exist, and would make nonsubstantive editorial changes to the paragraph to improve its clarity.

(We would amend the definition of the term *from* in § 319.37–1 to reflect the provisions of proposed paragraph (b)(3) and these proposed redesignations.)

Finally, we are proposing to amend the entries for *Prunus* spp. located in the table found within paragraph (a) of § 319.37–2 and to the entries for *Chaenomeles, Cydonia, Malus, Prunus, Pyrus,* and *Vitis* spp. within the table in paragraph (a) of § 319.37–7 to reflect these revisions to paragraphs (b) and (j) of § 319.37–5.

Dianthus spp. from the Netherlands

Restricted articles (except seed) of *Dianthus* spp. (carnation, sweet-william) from Great Britain that are imported into the United States must be grown under postentry quarantine conditions in accordance with § 319.37–7 of the regulations, unless they are imported in accordance with paragraph (d) of § 319.37–5. Paragraph (d) authorizes the importation of restricted articles (except seeds) of *Dianthus* spp. from Great Britain, provided that the articles are accompanied by a phytosanitary certificate with an additional declaration that the article was grown in a greenhouse nursery in Great Britain and found by the NPPO of Great Britain to be free from injurious plant diseases caused by *Phialophora cinerescens* (Wr.) van Beyma, (=*Verticillium cinerescens* Wr.), carnation etched ring virus, carnation ''streak'' virus, and carnation ''fleck'' virus, based on visual examination of the parent stock, of the articles for importation, and of the greenhouse nursery in which the articles for importation and the parent stock are grown, once a month for 4 consecutive months immediately prior to importation, and based on indexing of the parent stock.

The NPPO of the Netherlands requested that we authorize importation of *Dianthus* spp. from that country under the same conditions provided for Great Britain. In support of this request, the NPPO subsequently presented APHIS with information regarding the diseases of *Dianthus* known to exist in the Netherlands, the protocol under which they would certify greenhouse nurseries, and the manner in which *Dianthus* spp. articles within those nurseries would be visually examined and indexed for diseases of *Dianthus.*

Based on the information provided, APHIS has determined that the quarantine pests of *Dianthus* known to exist in the Netherlands are carnation etched ring virus, carnation ''streak'' virus, and carnation ''fleck'' virus, that the certification protocol provides oversight of greenhouses that is adequate to ensure their ongoing freedom from these pests, and that the procedures that the NPPO of the Netherlands employs to examine and index articles are consistent with or exceed those used by the NPPO of Great Britain. Accordingly, we have concluded that the certification protocols and procedures set forth by the NPPO of the Netherlands meet the provisions of § 319.37–5(d) and would mitigate the pest risk presented by *Dianthus* spp. from the Netherlands. In accordance with this conclusion, we would amend paragraph (d) so that it applies both to Great Britain and to the Netherlands.

In a related matter, § 319.37–7(a) currently exempts *Dianthus* spp. imported from Great Britain under the conditions of § 319.37–5(d) from postentry quarantine requirements that otherwise apply to all *Dianthus* spp. articles that are imported from countries other than Canada. We would amend § 319.37–7(a) so that this exemption would extend to *Dianthus* spp. from the Netherlands imported under the conditions of § 319.37–5(d), as well.

Paragraph (k) of § 319.37–5 contains requirements for the importation of restricted articles of *Feijoa* (feijoa, pineapple guava) from New Zealand. The term ''*Feijoa*'' is considered archaic by the international taxonomic community. Therefore, to reflect current usage, we would remove the term from the regulations, and add ''*Acca sellowiana* (O. Berg) Burret'' in its place.

Finally, we would amend paragraph (v) of § 319.37–5, which provides conditions for the importation of plants from Israel, to make it clear that packing material used for such plants must not introduce pests of concern either to the plants or in general.

Specific Treatment and Other Requirements (§ 319.37–6)

Section 319.37–6 lists treatment and other requirements under which seeds, bulbs, and dormant herbaceous perennials of certain genera and species may be imported into the United States from countries and localities in which a quarantine pest is known to be present.

Currently, the section does not specify that any articles of *Dioscorea* spp. (yam) must be treated for quarantine pests. However, if articles of *Dioscorea* spp. (including, but not limited to, dormant herbaceous perennials, minisetts, and yam-setts) are not treated at the time of their importation into the United States, they may present a pathway for the dissemination of *Aspiditosis hartii* (yam scale), *Palaeopus costicollis* (yam weevil), and several other external and internal feeders that are quarantine pests.

Because of these pest risks, we have long required *Dioscorea* spp. plants for planting to be treated according to methyl bromide treatment schedule T202–d, found in the PPQ Treatment Manual at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/treatment.shtml,* in accordance with 7 CFR part 305.

Accordingly, we would amend § 319.37–6 to specify that *Dioscorea* spp. (yam) plants for planting, including, but not limited to, dormant herbaceous perennials, minisetts, and yam-setts from any country present a risk of disseminating internal and external feeders, including but not limited to *Aspiditosis hartii* (yam scale) and *Palaeopus costicollis* (yam weevil), into the United States, and to state that such articles may be imported into the United States only if they have been treated in accordance with 7 CFR part 305.

The PPQ Treatment Manual currently lists three exceptions to this requirement; we would codify these

exceptions in § 319.37–6. The exceptions are:

• Dormant herbaceous perennials, minisetts, and yam-setts of *Dioscorea* spp. that are imported from Japan. Pests of yams that are of quarantine significance are not known to exist in Japan.

• Dormant herbaceous perennials, minisetts, and yam-setts of *Dioscorea* spp. that are imported from the Dominican Republic into Puerto Rico. Pests of yams that are of quarantine significance and are known to exist in the Dominican Republic are also known to exist in Puerto Rico.

• Dormant herbaceous perennials, minisetts, and yam-setts of *Dioscorea* spp. (yam) that are imported from the West Indies into the U.S. Virgin Islands. Pests of yams that are of quarantine significance and are known to exist in the West Indies are also known to exist in the U.S. Virgin Islands.

We would specify that all yam dormant herbaceous perennials, minisets, and yam-setts imported into the United States, including those that would be exempted from methyl bromide treatment, would nonetheless be subject to inspection at the port of first arrival.

Postentry Quarantine (§ 319.37–7)

As we mentioned earlier in this document, § 319.37–7 contains our regulations governing postentry quarantine of certain restricted articles. Such articles may be imported into the United States only if they are destined for a State that has completed a postentry quarantine agreement with APHIS, if a postentry quarantine growing agreement, signed by the importer, has been completed and submitted to PPQ, and if PPQ has determined both that the growing agreement fulfills relevant requirements of § 319.37–7 and that State inspectors are available to monitor and enforce the postentry quarantine. In addition to the changes to § 319.37–7 discussed in the sections above, we would make several other changes to § 319.37–7.

Throughout the section, there are multiple references to PPQ's Postentry Quarantine Unit. That unit no longer exists, and the functions it performed are now carried out by PPQ's National Postentry Quarantine Coordinator. We would amend the section to reflect this change.

Paragraph (c)(1)(i) of § 319.37–7 lists the States that have entered into a postentry quarantine agreement with APHIS. Currently, the paragraph states that all U.S. States and Territories have entered into such an agreement, except the District of Columbia, Guam, Hawaii, Kansas, and the Northern Mariana Islands. However, all States and Territories have in fact entered into such an agreement. We would amend the paragraph accordingly.

Paragraph (d) sets forth requirements for postentry quarantine growing agreements. Among other requirements, the agreement must certify to APHIS and to the State in which the articles were grown that the signer of the agreement will move, propagate, or allow propagation of the article while it is under postentry quarantine only after having obtained written permission from PPQ to do so. However, the address for PPQ provided in the section is out of date. Therefore, we would amend the paragraph to list the current address.

In addition, within the paragraph, subparagraph (d)(7) is currently written in a manner that suggests that the signer of the agreement may move the articles without written permission from PPQ once the time period for postentry quarantine specified within the section has elapsed. This is not the case; the articles must remain under postentry quarantine conditions until the National Postentry Quarantine Coordinator issues a written release for the article. We would therefore amend the paragraph by adding a new subparagraph, (d)(8), specifying that each agreement must certify that the person signing the agreement will keep the article under postentry quarantine until the coordinator issues such a release.

Marking and Identity (§ 319.37–10)

Section 319.37–10 provides marking and identity requirements for restricted articles. Paragraph (c) of the section requires restricted articles, other than those imported by mail, to be accompanied by an invoice or packing list indicating the contents of the shipment at the time of importation or offer for importation into the United States.

We have discovered that term ''contents of the shipment'' is somewhat nebulous, and, as a result, invoices and packing lists do not always provide the information needed to readily identify the articles or route the shipment for inspection. Therefore, we would amend paragraph (c) so that the invoice or packing list would have to indicate the scientific names of the articles, at least to the level of genus, and the quantity of plants for planting in the shipment. The quantity would have to be expressed in the number of plant units, or in the case of seeds, by weight in grams or kilograms. Finally, when the regulations place restrictions on individual species or cultivars within a genus, the invoice or packing list would also have to identify the species or cultivar of the articles.

Arrival Notification (§ 319.37–11)

Section 319.37–11 provides that, promptly upon arrival of any restricted article at a port of entry, the importer must notify PPQ of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose. However, in 2002, most of inspection services at ports of entry were transferred from APHIS to United States Customs and Border Protection of the Department of Homeland Security. Since this transfer, only certain restricted articles—those that must be accompanied by a permit and that would be listed in redesignated subparagraphs (a)(1) through (a)(11) of § 319.37–3—have been inspected by PPQ at ports of entry. Therefore, we would amend § 319.37–11 to clarify that notification of arrival is necessary only for those restricted articles.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis identifies importers and wholesale merchants of

flowers, nursery stock, and florists' supplies, as well as wholesale merchants of fresh fruits and vegetables, as the small entities most likely to be affected by this action. The analysis considers the losses that may occur due to relaxing restrictions on the importation of certain plants for planting into the United States, while strengthening or expanding the scope of certain other restrictions. The analysis expects such losses to be relatively minor and anticipates that they would not substantively adversely impact small entities.

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

Executive Order 12988

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

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection or recordkeeping requirements included in the regulations that would be amended by this proposed rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0049.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 361

Agricultural commodities, Imports, Labeling, Quarantine, Reporting and recordkeeping requirements, Seeds, Vegetables, Weeds.

Accordingly, we propose to amend 7 CFR parts 319 and 361 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.37 [Amended]

■ 2. In § 319.37, in paragraph (b), the final sentence is amended by removing the words ''and the availability of treatment facilities for the article'' and adding the words ''the availability of treatment facilities for the article, and any other factors pertaining to the risk that the article may present to plants, plant parts, or plant products within the United States that he or she considers necessary.''

■ 3. Section 319.37–1 is amended as follows:

■ a. In the definition of *from,* in paragraph (b), by adding the words ''or an article whose importation into the United States is not authorized pending pest risk analysis'' after the words ''prohibited article'', and by removing the words ''(c), (d), (e), (f), (g), (h), (i), (j), (k)'' and adding the words ''(b)(3), (b)(4), (c), (d), (e), (f), (g), (h), (i), (k)'' in their place;

■ b. By revising the definitions of *bulb* and *phytosanitary certificate of inspection;* and

■ c. By adding, in alphabetical order, new definitions of *Administrator* and *dormant herbaceous perennial.*

The revisions and additions read as follows:

§ 319.37–1 Definitions.

* * * * *

Administrator. The Administrator of the Animal and Plant Health Inspection Service (APHIS), or any person authorized to act for the Administrator.

Bulb. The storage organ of a plant that serves as the plant's sexual structure during dormancy. Examples include bulbs, bulbils, bulblets, corms, and cormels. For purposes of this subpart, a bulb remains a bulb until such time as environmental conditions induce it to produce shoots. It is then considered a plant.

* * * * *

Dormant herbaceous perennial. Except for bulbs, the portions of an herbaceous perennial that remain after the above-ground parts of the plant have died back to the earth after the growing season and the plant remains dormant. Examples include rhizomes, tubers, tuberous roots, pips, fleshy roots, divisions, and underground fleshy growths. For purposes of this subpart, dormant herbaceous perennials remain dormant herbaceous perennials until such time as environmental conditions induce them to sprout. They are then considered plants.

* * * * *

Phytosanitary certificate of inspection. A document, including electronic versions, that is related to a restricted article and is issued not more than 15 days prior to shipment of the restricted article from the country in which it was grown and that:

(1) Is patterned after the model certificate of the International Plant Protection Convention, a multilateral convention on plant protection under the authority of the Food and Agriculture Organization of the United States (FAO);

(2) Is issued by an official of a foreign national plant protection organization in one of the five official languages of the FAO;

(3) Is addressed to the national plant protection organization of the United States (Animal and Plant Health Inspection Service);

(4) Describes the shipment;

(5) Certifies the place of origin for all contents of the shipment;

(6) Certifies that the shipment has been inspected and/or tested according to appropriate official procedures and is considered free from quarantine pests of the United States;

(7) Contains any additional declarations required by this subpart; and

(8) Certifies that the shipment conforms with the phytosanitary requirements of the United States and is considered eligible for importation pursuant to the laws and regulations of the United States.

* * * * *

■ 4. In § 319.37–2, in paragraph (a), the table is amended as follows:

■ a. By removing the entries for ''*Arikuryoba* spp. (arikury palm)'', ''*Chrysalidocarpus* spp. (butterfly palm)'', ''*Mahoberberis* spp. (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter)'', ''*Mahoberberis* spp. destined to an eradication State listed in § 301.38–2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of

this chapter)'', ''*Mahoberberis* spp. seed'', ''*Mahonia* spp. (mahonia) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter)'', ''*Mahonia* spp. (mahonia) destined to an eradication State listed in § 301.38–2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter)'', ''*Mahonia* spp. seed'', and ''*Neodypsis* spp. (palm)'';

■ b. In the entry for ''*Acer* spp. (maple) (except *Acer palmatum* and *Acer japonicum* meeting the conditions for importation in § 319.37–5(m)'', by removing the words ''in § 319.375(m)'' and adding the words ''in §§ 319.37–5 or 319.37–7'' in their place;

■ c. In the entry for ''*Berberis* spp. (barberry) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter)'', by removing the word ''(barberry)'' and adding the words ''(barberry, includes *Mahoberberis* and *Mahonia* spp.)'' in its place;

■ d. In the entry for ''*Berberis* spp. (barberry) destined to an eradication State listed in § 301.38–2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter),'' by removing the word ''(barberry)'' and adding the words ''(barberry, includes *Mahoberberis* and *Mahonia* spp.)'' in its place;

■ e. In the entry for ''*Berberis* spp. (barberry) seed'', by removing the word ''(barberry)'' and adding the words ''(barberry, includes *Mahoberberis* and *Mahonia* spp.)'' in its place;

■ f. By revising the entry for ''*Chaenomeles* spp. (flowering quince) not meeting the conditions for importation in § 319.37–5(b)'';

■ g. By revising the entry for ''*Chrysanthemum,* spp. (chrysanthemum, includes *Dendranthema* spp.)'';

■ h. In the entry for ''*Cydonia* spp. (quince) not meeting the conditions for importation in § 319.37–5(b)'' by removing the words ''in § 319.37–5(b)'' and adding the words ''in §§ 319.37–5(b) and 319.37–7'' in their place;

■ i. By adding an entry for ''*Dypsis* spp. (butterfly palm)'';

■ j. By revising the entry for ''*Leucanthemella serotina'';*

■ k. In the entry for ''*Malus* spp. (apple, crabapple) not meeting the conditions for importation in § 319.37–5(b)'', by removing the words ''in § 319.37–5(b)'' and adding the words ''in §§ 319.37–5(b) and 319.37–7'' in their place;

■ l. By revising the entry for ''*Nipponanthemum nipponicum'';*

■ m. By removing the entry for ''*Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) not meeting the conditions for importation in § 319.37–5(b)'' and adding a new entry for ''*Prunus* spp. not meeting the conditions for importation in § 319.37–5(b)'' in its place;

■ n. By removing the entry for ''*Prunus* spp. seed only (almond, apricot, nectarine, peach, plum, and prune, but not species in subgenus *Cerasus*) not meeting the conditions for importation in § 319.37–5(j)'' and adding a new entry for ''*Prunus* spp. seed only not meeting the conditions for importation in § 319.37–5(b)'' in its place;

■ o. In the entry for ''*Salix* spp. (willow)'', by removing the words ''*Erwinia salicis* (Day) Chester'' and adding the words ''*Brenneria salicis* (Day) Hauben et al., syn. *Erwinia salicis* (Day) Chester'' in their place.

■ p. By adding an entry for ''*Syagrus schizophylla* (Mart.) Glassman (arikury palm)''; and

■ q. In the entry for ''*Vitis* spp. (grape) not meeting the conditions for importation in § 319.37–5(b),'' by removing the words ''in § 319.37–5(b)'' and adding the words ''in §§ 319.37–5(b) and 319.37–7'' in their place.

The additions and revisions read as follows:

§ 319.37–2 Prohibited articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Quarantine pests existing in the places named and capable of being transported with the prohibited article
* *	* * *	* *
Chaenomeles spp. (flowering quince) not meeting the conditions for importation in §§ 319.37–5(b) and 319.37–7.	All	A diversity of diseases including but not limited to those listed for *Chaenomeles* in § 319.37–5(b)(3).
Chrysanthemum spp. (chrysanthemum, includes *Dendranthema* spp.) not meeting the conditions for importation in §§ 319.37–5(c) and 319.37–7.	All	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
* *	* * *	* *
Dypsis spp. (butterfly palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
* *	* * *	* *
Leucanthemella serotina not meeting the conditions for importation in §§ 319.37–5(c) and 319.37–7.	All	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
* *	* * *	* *
Nipponanthemum nipponicum not meeting the conditions for importation in §§ 319.37–5(c) and 319.37–7.	All	*Puccinia horiana* P. Henn. (white rust of chrysanthemum).
* *	* * *	* *
Prunus spp. not meeting the conditions for importation in § 319.37–5(b).	All	A diversity of diseases including but not limited to those listed for *Prunus* in § 319.37–5(b).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Quarantine pests existing in the places named and capable of being transported with the prohibited article
Prunus spp. seed only not meeting the conditions for importation in § 319.37–5(b).	All	Plum pox (=Sharka) potyvirus.
* *	* * *	* *
Syagrus schizophylla (Mart.) Glassman (arikury palm).	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
* *	* * *	* *

* * * * *

■ 5. In § 319.37–3, paragraphs (a), (b), and (d) are revised to read as follows:

§ 319.37–3 Permits.

(a) * * *

(1) Lots of 13 or more articles (other than seeds of herbaceous plants, precleared bulbs or dormant herbaceous perennials of a taxon approved by APHIS for preclearance, or sterile cultures of orchid plants) from any country or locality except Canada;

(2) Seeds of non-herbaceous plants, such as trees and shrubs, from any country or locality except Canada;

(3) Articles subject to the requirements of § 319.37–5;

(4) Articles subject to the postentry quarantine conditions of § 319.37–7;

(5) Small lots of seed imported in accordance with § 319.37–4(d) of this subpart;

(6) Articles subject to treatment and other requirements of § 319.37–6;

(7) Seed of herbaceous plants for planting that is coated, pelleted, or embedded in a substrate that obscures visibility;

(8) Articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp., *Cydonia* spp. (quince), *Chaenomeles* spp. (flowering quince), *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry), and *Vitis* spp. (grape) from Canada;

(9) Articles (except seeds) of *Fraxinus* spp. (ash) from counties or municipal regional counties in Canada that are not regulated for emerald ash borer (EAB) but that are within an EAB-regulated Province or Territory and are not prohibited under § 317.37–2;

(10) Articles (except seeds) of *Pinus* spp. from Canada; and

(11) *Solanum tuberosum* true seed from New Zealand and the X region of Chile (that area of Chile between 39° and 44° South latitude—see § 317.37–5(o));

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 136, Riverdale, MD 20737–1236) at least 30 days prior to the arrival of the article at the port of entry. The completed application must contain the following information:[4]

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds (botanical designations) of articles intended to be imported;

(3) Country(ies) or locality(ies) where grown;

(4) Intended United States port of entry;

(5) Means of transportation, e.g., mail, airmail, express, air express, freight, airfreight, or baggage; and

(6) Expected date of arrival.

* * * * *

(d) Any permit which has been issued may be withdrawn by an inspector or the Administrator if he or she determines that the holder of the permit has not complied with any condition for the use of the document. The reasons for the withdrawal will be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons on which the person relies to show that the permit was wrongfully withdrawn. The Administrator will grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict.

* * * * *

6. Section 319.37–4 is amended as follows:

a. By revising paragraph (a) introductory text;

b. In paragraph (a)(4), by removing the word ''Bulbs'' and adding the words ''Small packages of bulbs offered to travelers returning'' in its place, and by adding the word ''within'' before the words ''6 weeks after the issuance''; and

c. In paragraph (b), by removing the words ''may be sampled and inspected'' and adding the words ''must be presented for inspection'' in their place.

The revision reads as follows:

§ 319.37–4 Inspection, treatment, and phytosanitary certificates of inspection.

(a) *Phytosanitary certificates of inspection.* Any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate, unless the article is explicitly exempted from this requirement in the paragraphs below. The phytosanitary certificate must identify the genus of the article it accompanies. When the regulations in this subpart place restrictions on individual species or cultivars within a genus, the phytosanitary certificate must also identify the species or cultivar of the article it accompanies. If the plant is grafted, budded, or otherwise contains interpolated plant parts, the phytosanitary certificate must list the identity of any plant parts (e.g., scion, rootstock, or interstem) that belong to restricted taxa to the lowest regulated taxon, e.g., genus, species, or cultivar. Otherwise, identification of the species is strongly preferred, but not required. Intergeneric and interspecific hybrids must be designated by placing the multiplication sign ''×'' between the names of the parent taxa. If the hybrid is named, the multiplication sign may instead be placed before the name of an intergeneric hybrid or before the epithet in the name of an interspecific hybrid. Phytosanitary certificates are not

[4] Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 136, Riverdale, MD 20737–1236, or from local offices, which are listed in telephone directories. Application forms are also available online at the following Web site: *http://www.aphis.usda.gov/plant_health/permits/http://www.aphis.usda.gov/plant_health/permits/index.shtml.* Please note that this Internet site requires persons to establish an eAuthentication account prior to use.

required to accompany the following restricted articles:

* * * * *

■ 7. Section 319.37–5 is amended as follows:

■ a. By revising paragraphs (a), (b), and (c);

■ b. In paragraph (d), by adding the words ''or the Netherlands'' after the words ''Great Britain'' each time they occur;

■ c. By removing and reserving paragraph (j);

■ d. In paragraph (k), by removing the word ''*Feijoa*'' and adding the words ''*Acca sellowiana* (O. Berg) Burret'' in its place;

■ e. In paragraph (m), by adding the words '', and unless the article is subject to the postentry quarantine requirements of § 319.37–7(a)'' at the end of the sentence; and

■ f. In paragraph (v)(4)(iv), by removing the words ''to the plants''.

The revisions read as follows:

§ 319.37–5 Special foreign inspection and certification requirements.

(a) Any restricted article (except seeds, unrooted cuttings, and articles declared solely for food, analytical, or manufacturing purposes) from Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Azores, Belarus, Belgium, Bolivia, Bulgaria, Canada (all areas regulated by the national plant protection organization of Canada for potato cyst nematodes), Channel Islands, Chile, Columbia, Costa Rica, Crete, Croatia, Cyprus, Czech Republic, Denmark (including Faeroe Islands), Ecuador, Egypt, Estonia, Falkland Islands, Finland, France, Georgia, Germany, Great Britain, Greece, Guernsey, Hungary, Iceland, India, Indonesia, Ireland, Italy, Japan, Jersey, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Republic of Moldova, Morocco, the Netherlands, New Zealand, Northern Ireland, Norway, Pakistan, Panama, Peru, the Philippines, Poland, Portugal (including Madeira), Romania, Russian Federation, Serbia and Montenegro, Sierra Leone, Slovakia, Slovenia, South Africa, Spain (including Canary Islands and Mallorca), Sri Lanka, Sweden, Switzerland, Tajikistan, Tunisia, Turkey, Turkmenistan, Ukraine, Uzbekistan, and Venezuela must be accompanied by a phytosanitary certificate of inspection with an additional declaration either:

(1) That the article was grown on land or in a substrate which has been microscopically inspected by the national plant protection organization of the country in which it was grown within 12 months preceding issuance of the certificate and found free from potato cyst nematodes, *Globodera rostochiensis* (Woll.) Behrens and *G. pallida* (Stone) Behrens; or

(2) That the article has been grown within a secure environment in a production area that is free of potato cyst nematodes, in a soilless growing medium, or *in vitro,* and has never been grown in soil nor come in contact with soil.

(b)(1) Any of the following restricted articles (except seeds) at the time of arrival at the port of first arrival in the United States must be accompanied by a phytosanitary certificate that contains an additional declaration that the article was grown in a nursery in Belgium, Canada, France, Germany, Great Britain, or the Netherlands and that the article was found by the national plant protection organization of the country in which the article was grown to be free of the following injurious plant pathogens listed in paragraph (b)(5) of this section: For *Chaenomeles* spp. (flowering quince) and *Cydonia* spp. (quince), pathogens (i), (ii), (iv), (xviii), (xix), (xx), and (xxi); for *Malus* spp. (apple, crabapple), pathogens (i), (ii), (iii), (vi), (vii), (viii), (viii), (xxii), (xxiii), (xliv), (xlv), (xlvi), and (xlvii); for *Prunus* spp. not susceptible to plum pox (=Sharka) potyvirus (*P. avium, P. cerasus, P. effusa, P. laurocerasus, P. mahaleb, P. padus, P. sargentii, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. yedoensis,* and *P. virginiana*), pathogens (i), (x) through (xvii), (xxii), and (xlvii); for *Pyrus* spp. (pear), pathogens (i), (ii), (iv), (v), (xviii), (xix), (xx), (xlvii), and (xlviii); and for *Vitis* spp. (grape) from Canada, pathogens (xiv) through (xvii) and (xxiv) through (xliii). The determination by the national plant protection organization that the article is free of these pathogens will be based on visual examination and indexing of the parent stock of the article and inspection of the nursery where the restricted article is grown to determine that the nursery is free of the specified pathogens. An additional declaration on the phytosanitary certificate of inspection by the national plant protection organization that a pathogen does not occur in the country in which the article is grown may be used in lieu of visual examination and indexing of the parent stock for that pathogen and inspection of the nursery. Finally, for articles containing more than one plant part (e.g., grafted or budded plants), if the scion, interstem, rootstock, or any other plant part of the finished plant that is offered for importation belongs to a taxon listed within this paragraph as a regulated taxon, the additional declaration must address the quarantine pests and related restrictions associated with that taxon. The additional declaration must list all plant parts of regulated taxa that have been incorporated into the finished plant.

(2) Budwood of *Prunus* spp. susceptible to plum pox (=Sharka) potyvirus (species other than *P. avium, P. cerasus, P. effusa, P. laurocerasus, P. mahaleb, P. padus, P. sargentii, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. yedoensis,* and *P. virginiana*) and grown in Belgium, France, Germany, Great Britain, or the Netherlands may be imported into the United States only if is accompanied by a phytosanitary certificate with an additional declaration that the original parent stock (nuclear stock) has been indexed and found free of pathogens (i), (ix) through (xvii), (xxii), (xlvii), and (xlviii) of paragraph (b)(5) of this section by the appropriate national fruit tree certification program, and only if the original parent stock from which the budwood is taken is produced within a secure, enclosed, APHIS-approved pest-exclusionary facility within a national plan protection organization-operated or -approved nuclear stock program where the parent stock is maintained in a pathogen-free state.

(3) Restricted articles, except seed, of *Prunus* spp. susceptible to plum pox (=Sharka) potyvirus (species other than *P. avium, P. cerasus, P. effusa, P. laurocerasus, P. mahaleb, P. padus, P. sargentii, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. yedoensis,* and *P. virginiana*) from Canada must be accompanied by a phytosanitary certificate that contains an additional declaration that the article was grown in a nursery in Canada, that the article was found by the national plant protection organization of Canada to be free of the following injurious plant pathogens listed in paragraph (b)(5) of this section: (i), (ix) through (xvii), (xxii), (xlvii), and (xlviii), and that the article was grown in an area that has been surveyed and found free of plum pox (=Sharka) potyvirus according to a surveying protocol mutually agreed upon by APHIS and the national plant protection organization of Canada. The determination by the national plant protection organization of Canada that the article is free of these pathogens will be based on visual examination and indexing of the parent stock of the article and inspection of the nursery where the restricted article is grown to determine that the nursery is free of the specified pathogens. An additional declaration on the phytosanitary certificate of inspection by the national

plant protection organization of Canada that a pathogen does not occur in Canada may be used in lieu of visual examination and indexing of the parent stock for that pathogen and inspection of the nursery. Finally, if any part of the article is not from Canada, but rather from a third country, that article must meet the entry requirements of this subpart as if the article had been directly imported into the United States from that third country.

(4)(i) Seeds of *Prunus* spp. susceptible to plum pox (=Sharka) potyvirus (species other than *P. avium, P. cerasus, P. effusa, P. laurocerasus, P. mahaleb, P. padus, P. sargentii, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. yedoensis,* and *P. virginiana*) from Belgium, Canada, France, Germany, Great Britain, or the Netherlands shall, at the time of arrival at the port of first arrival at the United States, be accompanied by a phytosanitary certificate of inspection containing accurate additional declarations that:

(A) The seeds are from parent stock grown in a nursery in Belgium, Canada, France, Germany, Great Britain, or the Netherlands that is free of plum pox (=Sharka) potyvirus; and

(B) The seeds have been found by the national plant protection organization of the country in which they are produced to be free of plum pox (=Sharka) potyvirus based on the testing of parent stock by visual examination and indexing.

(ii) Seeds of *Prunus* spp. susceptible to plum pox (=Sharka) potyvirus (species other than *P. avium, P. cerasus, P. effusa, P. laurocerasus, P. mahaleb, P. padus, P. sargentii, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. yedoensis,* and *P. virginiana*) from all countries except those in Europe, Argentina, Canada, Chile, Cyprus, Japan, Syria, and Turkey shall, at the time of arrival at the port of first arrival, be accompanied by a phytosanitary certificate of inspection, containing an accurate additional declaration that plum pox (=Sharka) potyvirus does not occur in the country in which the seeds were produced.

(5) List of pathogens.

(i) *Monilinia fructigena* (Aderh. & Ruhl.) Honey (Brown rot of fruit).

(ii) *Guignardia piricola* (Nose) Yamomoto (Leaf, branch, and fruit disease).

(iii) Apple proliferation phytoplasma.

(iv) Pear blister canker apscaviroid.

(v) Pear bud drop virus.

(vi) *Diaporthe mali* Bres. (Leaf, branch, and fruit fungus).

(vii) Apple green crinkle agent (Apple false sting virus).

(viii) Apple chat fruit agent (Apple small fruit).

(ix) Plum pox (=Sharka) potyvirus and its strains.

(x) Cherry leaf roll nepovirus (Elm mosaic virus, golden elderberry virus).

(xi) European cherry rusty mottle virus.

(xii) European stone fruit yellows phytoplasma (Apricot chlorotic leaf roll agent).

(xiii) Plum bark split trichovirus.

(xiv) Arabis mosaic nepovirus and its strains.

(xv) Raspberry ringspot nepovirus (European cherry rasp leaf) and its strains.

(xvi) Tomato blackring nepovirus (Myrobalan latent ringspot, peach shoot stunting) and its strains.

(xvii) Strawberry latent ringspot sadwavirus (Peach willow leaf rosette, Court noue) and its strains.

(xviii) Quince sooty ringspot agent.

(xix) Quince yellow blotch agent (Pear yellow blotch agent, Apple rubbery wood phytoplasma).

(xx) Quince stunt agent.

(xxi) *Gymnosporangium asiaticum* Miyabe ex. Yamada (Rust).

(xxii) *Valsa mali* Miyabe and Yamada ex. Miura (Branch canker fungus).

(xxiii) Apple ringspot agent (Apple thumb mark, Thumb mark, Apple Henderson spot agent).

(xxiv) The following nematode transmitted viruses: Artichoke Italian latent virus, Grapevine Bulgarian latent virus, Grapevine fanleaf virus and its strains, and Hungarian chrome mosaic virus.

(xxv) Grapevine asteroid mosaic agent.

(xxvi) Grapevine Bratislava mosaic virus.

(xxvii) Grapevine chasselas latent agent.

(xxviii) Grapevine corky bark ''Legno riccio'' agent.

(xxix) Grapevine leaf roll viruses.

(xxx) Grapevine little leaf agent.

(xxxi) Grapevine stem pitting agent.

(xxxii) Grapevine vein mosaic agent.

(xxxiii) Grapevine vein necrosis agent.

(xxxiv) Flavescence-doree phytoplasma.

(xxxv) Black wood phytoplasma (bois-noir).

(xxxvi) Grapevine infectious necrosis bacterium.

(xxxvii) Grapevine yellows disease bacterium.

(xxxviii) *Xanthomonas ampelina* Panagopoulas.

(xxxix) *Peyronellaea glomerata* Ciferri.

(xl) *Pseudopeziza tracheiphila* Muller-Thur-gau.

(xli) *Rhacodiella vitis* Sterenberg.

(xlii) *Rosellinia necatrix* Prill.

(xliii) *Septoria melanosa* (Vialla and Ravav) Elenk.

(xliv) Apple fruit crinkle apscaviroid.

(xlv) Apple dimple fruit apscaviroid.

(xlvi) Apple scar skin apscaviroid.

(xlvii) *Monilinia polystroma.*

(xlviii) Apricot pseudo-chlorotic leaf spot trichovirus.

(c) Any restricted article (except seeds) of *Chrysanthemum* spp. (chrysanthemum, includes *Dendranthema* spp.), *Leucanthemella serotina,* or *Nipponathemum nipponicum,* from a foreign place except Asia, Europe, South America, Australia, Mexico, New Zealand, Oceania (Melanesia, Micronesia, and Polynesia), Republic of South Africa, and Tunisia shall, at the time of arrival at the port of first arrival in the United States, be accompanied by a phytosanitary certificate of inspection. The phytosanitary certificate of inspection must contain a declaration that the article was grown in a greenhouse nursery and found by the national plant protection organization of the country in which the article was grown to be free of white rust of chrysanthemum (caused by the by the rust fungus *Puccinia horiana* P. Henn.) based on visual examination of parent stock, the articles for importation, and the greenhouse nursery in which the articles for importation and the parent stock were grown, once a month for 4 consecutive months immediately prior to importation. Such articles are also subject to the postentry quarantine requirements of § 319.37–7.

* * * * *

■ 8. Section 319.37–6 is amended as follows:

■ a. In paragraph (a), in the table, by adding an entry for ''*Dioscorea* spp. (yam) plants for planting, including, but not limited to, dormant herbaceous perennials, minisetts, and yam-setts''; and

■ b. By adding a new paragraph (e).

The additions read as follows:

§ 319.37–6 Specific treatment and other requirements.

(a) * * *

Seed/Bulb	Country/Locality	Pest(s) for which treatment is required
* *	* * *	* *
Dioscorea spp. (yam) plants for planting, including, but not limited to, dormant herbaceous perennials, minisetts, and yam-setts.	All countries, except as provided in paragraphs (e)(1) through (e)(3) of this section.	A diversity of internal and external feeders, including but not limited to: *Aspiditosis hartii* (yam scale) and *Palaeopus costicollis* (yam weevil).
* *	* * *	* *

* * * * *

(e) *Dioscorea* spp. (yam) plants for planting, including, but not limited to, dormant herbaceous perennials, minisetts, and yam-setts, may be imported into the United States without being treated in accordance with part 305 of this chapter if:

(1) They are imported from Japan.

(2) They are imported from the Dominican Republic into Puerto Rico.

(3) They are imported from the West Indies into the U.S. Virgin Islands.

■ 9. Section 319.37–7 is amended as follows:

■ a. By removing the words ''Postentry Quarantine Unit'' wherever they occur and adding the words ''National Postentry Quarantine Coordinator'' in their place;

■ b. In paragraph (a)(3), in the table, by revising the entries for ''*Acer* spp. (maple)'', ''*Chaenomeles* spp. (flowering quince) meeting the conditions for importation in § 319.37–5(b)'', ''*Chrysanthemum* spp. (chrysanthemum, includes *Dendranthema* spp.), meeting the conditions in § 319.37–5(c)'', ''*Cydonia* spp. (quince) meeting the conditions for importation in § 319.37–5(b)'', ''*Leucanthemella serotina*'', ''*Malus* spp. (apple, crabapple) meeting the conditions for importation in § 319.37–5(b)'', ''*Nipponanthemum nipponicum*'', ''*Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) meeting the conditions for importation in § 319.37–5(b)'', and ''*Pyrus* spp. (pear) meeting the conditions for importation in § 319.37–5(b)'';

■ c. In paragraph (a)(3), in the table, in the entry for ''*Dianthus* spp. (carnation, sweet-william)'', by adding the words ''and the Netherlands'' after the words ''Great Britain'';

■ d. In paragraph (c)(1)(i), by removing the words '', except the District of Columbia, Guam, Hawaii, Kansas, and the Northern Mariana Islands'';

■ e. In paragraph (d)(1), by removing the words ''Building 580, BARC-East, Beltsville, MD 20705'' and adding the words ''4700 River Road, Unit 133 Riverdale, MD 20737–1236'' in their place; and

■ f. By adding a new paragraph (d)(8).

The revisions and additions read as follows:

§ 319.37–7 Postentry quarantine.

(a) * * *

(3) * * *

Restricted Article (excluding seeds)	Foreign Country(ies) or Locality(ies) from which imported
* * * *	* * *
Acer spp. (maple)	All except Canada, Europe (except the Netherlands in accordance with § 319.37–5(m)), and Japan.
* * * *	* * *
Chaenomeles spp. (flowering quince) meeting the conditions for importation in § 319.37–5(b).	All countries listed in § 319.37–5(b).
Chrysanthemum spp. (chrysanthemum), includes *Dendranthema* spp.), meeting the conditions for importation in § 319.37–5.	All except Asia, Europe, South America, Australia, Mexico, New Zealand, Oceania (Melanesia, Micronesia, and Polynesia), Republic of South Africa, and Tunisia.
* * * *	* * *
Cydonia spp. (quince) meeting the conditions for importation in § 319.37–5(b).	All countries listed in § 319.37–5(b).
* * * *	* * *
Leucanthemella serotina meeting the conditions for importation in § 319.37–5.	All except Asia, Europe, South America, Australia, Mexico, New Zealand, Oceania (Melanesia, Micronesia, and Polynesia), Republic of South Africa, and Tunisia.
* * * *	* * *
Malus spp. (apple, crabapple) meeting the conditions for importation in § 319.37–5(b).	All countries listed in § 319.37–5(b).
* * * *	* * *
Nipponathemum nipponicum meeting the conditions for importation in § 319.37–5.	All except Asia, Europe, South America, Australia, Mexico, New Zealand, Oceania (Melanesia, Micronesia, and Polynesia), Republic of South Africa, and Tunisia.
* * * *	* * *
Prunus spp. meeting the conditions for importation in § 319.37–5(b)	All countries listed in § 319.37–5(b).

Restricted Article (excluding seeds)	Foreign Country(ies) or Locality(ies) from which imported
* * * * * * *	
Pyrus spp. (pear) meeting the conditions for importation in § 319.37–5(b).	All countries listed in § 319.37–5(b).

* * * * *

(d) * * *

(8) To keep the article under postentry quarantine conditions until the National Postentry Quarantine Coordinator issues a written release for the article.

* * * * *

§ 319.37–8 [Amended]

■ 10. In § 319.37–8, paragraph (b)(2) is amended by removing the words ''Newfoundland or from that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road'' and adding the words ''all areas of Canada regulated by the national plant protection organization of Canada for potato cyst nematode'' in their place.

■ 11. In § 319.37–10, paragraph (c) is revised to read as set forth below.

§ 319.37–10 Marking and identity.

* * * * *

(c) Any restricted article for importation (by mail or otherwise), at the time of importation or offer for importation into the United States shall be accompanied by an invoice or packing list indicating the scientific names of the articles, at least to the level of genus, and the quantity of plants for planting in the shipment. Quantity must be expressed in the number of plant units, or in the case of seeds, by weight in grams or kilograms. Finally, when the regulations in this subpart place restrictions on individual species or cultivars within a genus, the invoice or packing list must also identify the species or cultivar of the articles.

* * * * *

§ 319.37–11 [Amended]

■ 12. Section 319.37–11 is amended by adding the words ''that must be accompanied by a permit in accordance with paragraphs (a)(1) through (a)(11) of § 319.37–3'' after the words ''restricted article''.

PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT

■ 13. The authority citation for part 361 continues to read as follows:

Authority: 7 U.S.C. 1581–1610; 7 CFR 2.22, 2.80, and 371.3.

§ 361.2 [Amended]

■ 14. In § 361.2, paragraph (d) is amended by adding the words ''and in addition to the restrictions of § 319.37–3(a)(7),'' before the words ''coated or pelleted seed'', and by adding the words '', or seed that is embedded in a substrate that obscures visibility'' after the words ''coated or pelleted seed''.

Done in Washington, DC, this 6th day of February 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–03058 Filed 2–11–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. FAA–2011–1136; Notice No. 12–07]

RIN 2120–AJ33

Air Carrier Contract Maintenance Requirements; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment period for an NPRM that was published November 13, 2012. In that rulemaking, the FAA proposed to amend the maintenance regulations for domestic, flag, and supplemental operations, and commuter and on-demand operations for aircraft type certificated with a passenger seating configuration of 10 seats or more (excluding any pilot seat). It would require these operators to develop policies, procedures, methods, and instructions for performing contract maintenance that are acceptable to the FAA and to include them in their maintenance manuals. It would also require the operators to provide a list to the FAA of all persons with whom they contract their maintenance. At the behest of several of their FAA-certificated air carrier members, Regional Air Cargo Carriers Association (RACCA) requested that the FAA extend the comment period closing date to allow time to adequately analyze the NPRM and prepare comments.

DATES: The comment period for the NPRM published on November 13, 2012 (77 FR 67584), was scheduled to close on February 11, 2013, and is extended until March 13, 2013.

ADDRESSES: You may send comments identified by docket number FAA–2011–1136 using any of the following methods:

1. *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

2. *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

3. *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

4. *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ralen Gao, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3168; email *ralen.gao@faa.gov.*

SUPPLEMENTARY INFORMATION: See the ''Additional Information'' section for information on how to comment on this proposal and how the FAA will handle comments received. The ''Additional Information'' section also contains related information about the docket. In addition, there is information on obtaining copies of related rulemaking documents.

Background

On November 13, 2012, the FAA issued Notice No. 12–07, entitled ''Air Carrier Contract Maintenance Requirements'' (77 FR 67584). Comments to that document were to be received on or before February 11, 2013.

By letter dated January 13, 2013, the Regional Air Cargo Carriers Association (RACCA) requested a 48-day extension of the comment period, to March 31, 2013. The petitioner requested this extension to allow time to adequately assess the impact of the requirements proposed in the NPRM, prepare comments, and develop proposed alternatives. If enacted in its currently-proposed form, RACCA believes the proposed rulemaking would result in significant unintended consequences, including greater operator cost and manpower requirements than those estimated in the NPRM, loss of efficiency, unbudgeted loss of aircraft availability, and a substantial additional workload for the FAA that would result in a diversion of FAA resources from more safety-critical tasks. It further believes that the rulemaking would add complication to the contract maintenance process without a quantifiable improvement in safety, and therefore it would not serve the public's interest.

While the FAA concurs with the petitioner's request for an extension of the comment period on Notice No. 12–07, it does not support a 48-day extension. The FAA finds that an additional 30 days is sufficient for the petitioner to analyze the NPRM and provide meaningful comment to Notice No. 12–07.

Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with § 11.47(c) of Title 14, Code of Federal Regulations, the FAA has reviewed the petition made by RACCA for extension of the comment period to Notice No. 12–07. This petitioner has shown a substantive interest in the proposed rule and good cause for the extension. The FAA has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for Notice No. 12–07 is extended until March 13, 2013.

Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies*; or
3. Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

Issued in Washington, DC, February 6, 2013.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2013–03178 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2013–0015]

RIN 1625–AA08

Special Local Regulation; Moss Point Rockin' the Riverfront Festival; Robertson Lake & O'Leary Lake; Moss Point, MS

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation for a portion of Robertson Lake & O'Leary Lake, Moss Point, MS. This action is necessary for the safeguard of participants and spectators, including all crews, vessels, and persons on navigable waters during the Moss Point Rockin' the Riverfront Festival high speed boat races. Entry into, transiting or anchoring in this area is prohibited to all vessels not registered with the sponsor as participants or not part of the regatta patrol, unless specifically authorized by the Captain of the Port (COTP) Mobile or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before March 14, 2013.

This proposed rule will be effective and enforceable with actual notice from 11:00 a.m. until 4:00 p.m. on April 27–28, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0015 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LT Lenell J. Carson, Coast Guard Sector Mobile, Waterways Management Division; telephone (251) 441–5940 or email *Lenell.J.Carson@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking
COTP Captain of the Port

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG–2013–0015), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0015) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0015) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this proposed rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The Coast Guard previously created a temporary special local regulation for this event when it was held in 2012. That rule was published in the **Federal Register** on March 14, 2012 (77 FR 14963), and the requirements of that rule are the same as those in this proposed rule.

C. Basis and Purpose

The Moss Point Main Street Association applied for a Marine Event Permit to conduct a high speed boat race on Robertson Lake & O'Leary Lake, Moss Point, MS on April 27–28, 2013. This event will draw in a large number of pleasure craft and the high speed boats pose a significant safety hazard to both vessels and mariners operating in or near the area. The COTP Mobile proposes to establish a temporary special local regulation for a portion of Robertson Lake & O'Leary Lake, Moss Point, MS. This proposed temporary special local regulation is deemed necessary to safeguard persons and vessels during the high speed boat races. The legal basis and authorities for this proposed rule are found in 33 U.S.C. 1233 and 33 CFR part 100, which authorizes the Coast Guard to propose, establish, and define regulatory special local regulations for safety during marine events.

The COTP anticipates minimal impact on vessel traffic due to this proposed regulation. However, the proposed temporary special local regulation is deemed necessary for the safeguard of life and property within the COTP Mobile zone.

D. Discussion of Proposed Rule

The Coast Guard proposes to establish a temporary special local regulation for a portion of Robertson Lake & O'Leary Lake, Moss Point, MS, enclosed by a bounded area starting at a point on the shore at approximately 30° 25′ 11.0″ N, 088 32′ 24.4″ W, then east to 30° 25′ 12.9″ N, 088 32′ 18.0″ W, then south to 30° 24′ 50.9″ N, 088 32′ 09.6″ W, then west following the shore line back to the starting point at 30° 25′ 11.0″ N, 088 32′ 24.4″ W. This temporary rule will safeguard life and property in this area. Entry into, transiting or anchoring in this zone is prohibited to all vessels not registered with the sponsor as participants or not part of the regatta patrol, unless specifically authorized by the COTP Mobile or a designated representative. They may be contacted on VHF–FM Channel 16 or through Coast Guard Sector Mobile at 251–441–5976.

The COTP Mobile or a designated representative will inform the public through broadcast notice to mariners of changes in the effective period for the proposed temporary special local regulation. This proposed rule will be effective from 11:00 a.m. until 4:00 p.m. on April 27–28, 2013.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and

executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The temporary special local regulation listed in this proposed rule will only restrict vessel traffic from entering or transiting a small portion of Robertson Lake & O'Leary Lake, Moss Point, MS. The effect of this regulation will not be significant for several reasons: (1) This rule will only affect vessel traffic for a short duration; (2) vessels may request permission from the COTP to transit through the regulated area; and (3) the impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through Local Notice to Mariners and Broadcast Notice to Mariners. These notifications will allow the public to plan operations around the affected area.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the affected portion of the Robertson Lake & O'Leary Lake during the high speed boat races. This proposed temporary special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons. The regulated area is limited in size, is of short duration and vessel traffic may request permission from the COTP Mobile or a designated representative to enter or transit through the regulated area.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01

and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves safety for the public and is not expected to result in any significant adverse environmental impact as described in NEPA. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.T08–0015 to read as follows:

§ 100.T08–0015 Special Local Regulation; Moss Point Rockin' the Riverfront Festival; Robertson Lake & O'Leary Lake; Moss Point, MS.

(a) *Location.* The following area is a regulated area: a portion of Robertson Lake & O'Leary Lake, Moss Point, MS, enclosed by a bounded area starting at a point on the shore at approximately 30° 25′ 11.0″ N, 088 32′ 24.4″ W, then east to 30° 25′ 12.9″ N, 088 32′ 18.0″ W, then south to 30° 24′ 50.9″ N, 088 32′ 09.6″ W, then west following the shore line back to the starting point at 30° 25′ 11.0″ N, 088 32′ 24.4″ W.

(b) *Enforcement dates.* This rule will be enforced from 11:00 a.m. until 4:00 p.m. on April 27–28, 2013.

(c) *Special Local Regulations.*

(1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM''.

(2) All Persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the Captain of the Port Mobile to patrol the regulated area.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels.

(4) No spectator shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The patrol commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel. Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The Patrol Commander will terminate enforcement of the special local regulations at the conclusion of the event.

(d) *Informational Broadcasts.* The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: January 21, 2013.

D.J. Rose,

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

[FR Doc. 2013–03122 Filed 2–11–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Numbers: 84.133B–3, 84.133B–4, 84.133B–5, and 84.133B–6.]

Proposed Priorities—National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priorities.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes four priorities for the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes a priority for an RRTC on Community Living and Participation for Individuals with Physical Disabilities (priority 1), RRTC on Employment of Individuals with Physical Disabilities (priority 2), RRTC on Health and Function of Individuals with Intellectual and Developmental Disabilities (priority 3), and RRTC on Community Living and Participation for Individuals with Intellectual and Developmental Disabilities (priority 4). The Assistant Secretary may use one or more of these priorities for competitions in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend the priorities to contribute to improved outcomes in these areas for individuals with disabilities.

DATES: We must receive your comments on or before March 14, 2013.

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

If you prefer to send your comments by email, use the following address: *marlene.spencer@ed.gov.* You must include the phrase ''Proposed Priorities for Combined RRTC Notice'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer. Telephone: (202) 245–

7532 or by email: *marlene.spencer@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice of proposed priorities is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training methods to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms for integrating research and practice; and (6) disseminate findings.

This notice proposes four priorities each of which NIDRR intends to use for one or more competitions in FY 2013 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award using these priorities. The decision to make an award will be based on the quality of applications received and available funding.

Invitation To Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities in room 5133, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the Rehabilitation Act through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. Additional information on the RRTC program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priorities:

Background:

This notice contains four proposed priorities. Each priority reflects a major area or domain of NIDRR's research agenda (community living and participation, health and function, and employment), combined with a specific broad disability population (physical disability or intellectual and developmental disability).

Definitions:

The research that is proposed under these priorities must be focused on one or more stages of research. If the RRTC is to conduct research that can be categorized under more than one research stage, or research that progresses from one stage to another, those research stages must be clearly specified. For purposes of these priorities, the stages of research, which we published for comment on January 25, 2013, are:

(i) *Exploration and Discovery* means the stage of research that generates hypotheses or theories by conducting new and refined analyses of data, producing observational findings, and creating other sources of research-based information. This research stage may include identifying or describing the barriers to and facilitators of improved outcomes of individuals with disabilities, as well as identifying or describing existing practices, programs, or policies that are associated with important aspects of the lives of individuals with disabilities. Results achieved under this stage of research may inform the development of interventions or lead to evaluations of interventions or policies. The results of the exploration and discovery stage of research may also be used to inform decisions or priorities.

(ii) *Intervention Development* means the stage of research that focuses on generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves determining the active components of possible interventions, developing measures that would be required to illustrate outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed intervention study. Results from this stage of research may be used to inform the design of a study to test the efficacy of an intervention.

(iii) *Intervention Efficacy* means the stage of research during which a project evaluates and tests whether an intervention is feasible, practical, and has the potential to yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of the relationships between an intervention and outcomes, and may identify factors or individual characteristics that affect the relationship between the intervention and outcomes. Efficacy research can inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and

contexts. This stage of research can include assessing the training needed for wide-scale implementation of the intervention, and approaches to evaluation of the intervention in real world applications.

(iv) *Scale-Up Evaluation* means the stage of research during which a project analyzes whether an intervention is effective in producing improved outcomes for individuals with disabilities when implemented in a real-world setting. During this stage of research, a project tests the outcomes of an evidence-based intervention in different settings. The project examines the challenges to successful replication of the intervention, and the circumstances and activities that contribute to successful adoption of the intervention in real-world settings. This stage of research may also include well-designed studies of an intervention that has been widely adopted in practice, but that lacks a sufficient evidence-base to demonstrate its effectiveness.

Proposed Priority 1—RRTC on Community Living and Participation for Individuals with Physical Disabilities.

NIDRR seeks to fund an RRTC that will generate new knowledge about community living and participation for individuals with physical disabilities and will serve as a national resource center for individuals with physical disabilities and their families.

Of the 51.5 million American adults with a disability, 41.5 million have disabilities in the physical domain (Brault, 2012). Despite the U.S. Supreme Court's *Olmstead* decision, 527 U.S. 581 (1999), which required States to provide services ''in the most integrated setting appropriate to the needs of qualified individuals with disabilities,'' id. at 607, people with physical disabilities continue to encounter significant barriers to living in the community and participating in activities of their choice. These barriers contribute to economic disadvantage and social isolation (Reinhard et al., 2011). Barriers to community living and participation for people with physical disabilities manifest themselves at both the individual and environmental level. They include limited access to: Home and community-based long-term services and supports, such as personal assistance and family caregiving, assistive technologies and devices and environmental modifications, medication management, and information and referral. The barriers also include lack of access to affordable and accessible housing and insufficient transportation services (Reinhard et al., 2011).

In 2010, 8.09 million adults (3.66 million working-age adults ages 18 to 64 and 4.43 million adults 65 years and over) were estimated to need personal assistance from a family member, friend, or paid helper in order to live in the community due to difficulties in performing basic activities of daily living (ADL), such as bathing, dressing, toileting, and getting around in one's home (Center for Personal Assistance Services, 2012). By 2030, the number of adults projected to need personal assistance with ADLs is estimated to increase by as much as 50 percent (Center for Personal Assistance Services, 2012). While studies show that the home is the setting of choice for the vast majority of people with physical disabilities and older adults who need assistance with daily activities (Salomon, 2010), there is a growing disparity between the demand for and supply of caregivers who are available and trained to provide these services (PHI, 2008).

References:

Brault, M. W. (2012). Americans with Disabilities: 2010. Washington, DC: Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau.

PHI. (2008). Occupational projections for direct-care workers 2006–2016, Facts 1. Bronx, NY: PHI (formerly the Paraprofessional Healthcare Institute). Available from: *www.directcareclearinghouse.org/download/BLSfactSheet4-10-08.pdf.*

Reinhard, S. C., Kassner, E., Houser, A., and Mollica, R. (September 2011). Raising expectations: A State scorecard on long-term services and supports for older adults, people with physical disabilities, and family caregivers. The AARP Foundation: Washington, DC. Available from: *http://assets.aarp.org/rgcenter/ppi/ltc/ltss_scorecard.pdf.*

Salomon, E. (March 2010). AARP Public Policy Institute: Housing policy solutions to support aging in place. Fact Sheet 172. Washington, DC: ARRP Center for Housing Policy. Available from: *http://assets.aarp.org/rgcenter/ppi/liv-com/fs172-aging-in-place.pdf.*

Center for Personal Assistance Services (2012). Projections for the Population Needing Personal Assistance, 2015–2030, U.S. Available from: *www.pascenter.org/state_based_stats/disability_stats/adl_projections.php?state=us.*

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for an RRTC on Community Living and Participation for Individuals with Physical Disabilities.

The RRTC must contribute to maximizing the community living and participation outcomes of individuals with physical disabilities by:

(a) Conducting research activities in one or more of the following priority areas, focusing on individuals with physical disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with physical disabilities:

(i) Technology to improve community living and participation outcomes for individuals with physical disabilities.

(ii) Individual and environmental factors associated with improved community living and participation outcomes for individuals with physical disabilities.

(iii) Interventions that contribute to improved community living and participation outcomes for individuals with physical disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for individuals with physical disabilities.

(iv) Effects of government practices, policies, and programs on community living and participation outcomes for individuals with physical disabilities.

(v) Practices and policies that contribute to improved community living and participation outcomes for transition-aged youth with physical disabilities.

(b) Focusing its research on one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages must be clearly specified. These stages and their definitions are provided at the beginning of the Proposed Priorities section in this notice.

(c) Serving as a national resource center related to community living and participation for individuals with physical disabilities, their families, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(i) Providing information and technical assistance to service providers, individuals with physical disabilities and their representatives, and other key stakeholders:

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers and other disability service providers, to facilitate more effective delivery of services to individuals with physical disabilities. This training may be provided through conferences, workshops, public education programs,

in-service training programs, and similar activities:

(iii) Disseminating research-based information and materials related to community living and participation for individuals with physical disabilities; and

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Proposed Priority 2—RRTC on Employment of Individuals with Physical Disabilities.

Background:

NIDRR seeks to fund an RRTC that will generate new knowledge about employment outcomes for individuals with physical disabilities and will serve as a national resource center for individuals with physical disabilities and their families. Despite the enactment of legislation and the implementation of a variety of policy and program efforts at the Federal and State levels to improve employment outcomes for individuals with disabilities, the employment rate for individuals with disabilities remains substantially lower than the rate for those without disabilities.

Of the 51.5 million American adults with a disability, 41.5 million have disabilities in the physical domain (Brault, 2012). Recent data from the Survey of Income and Program Participation revealed that 40.8 percent of individuals with only physical disabilities were employed, compared to 79.1 percent of individuals without a disability (Brault, 2012). Not only were people with physical disabilities much less likely to be employed, their median earnings were $1,998 per month as compared to $2,724 per month earned by people without a disability (Brault, 2012).

Previous research has demonstrated the importance of a variety of factors relevant to hiring, job retention, and advancement for individuals with physical disabilities. These include, but are not limited to, (1) individual factors such as disability characteristics, education, and age (Ottomanelli & Lind, 2009); (2) employer practices and organizational culture, including diversity management practices and the provision of accommodations such as assistive technology and personal assistance services (Chan et al., 2010; Colella & Bruyère, 2011; Nafukho et al., 2010; Ottomanelli & Lind, 2009; Stumbo et al., 2009); (3) government policies and programs, such as transportation systems, benefit programs, and the Americans with Disabilities Act (Colella & Bruyère, 2011; Ottomanelli & Lind, 2009); (4) programs for individuals in transition from school to work (Test et al., 2009); and (5) the effectiveness of vocational rehabilitation and other employment support practices (Marini et al., 2008; Ottomanelli & Lind, 2009).

References:

Brault, M. W. (2012). Americans with Disabilities: 2010. Household economic studies. U.S. Census Bureau. Available from: *www.census.gov/prod/2012pubs/p70–131.pdf.*

Chan, F., Strauser, D., Maher, P., Lee, E–J., Jones, R., and Johnson, E. T. (2010). Demand-side factors related to employment of people with disabilities: A survey of employers in the Midwest region of the United States. Journal of Occupational Rehabilitation, 20, 412–419.

Colella, A., and Bruyère, S. (2011). Disability and employment: New directions for industrial/organizational psychology. In American Psychological Association Handbook on Industrial Organizational Psychology, vol. 1, 473–503. Washington, DC: American Psychological Association.

Marini, I., Lee, G. K., Chan, F., Chapin, M. H., and Romero, M. G. (2008). Vocational rehabilitation service patterns related to successful competitive employment outcomes of persons with spinal cord injury. Journal of Vocational Rehabilitation, 28, 1–13.

Nafukho, F. M., Roessler, R. T., and Kacirek, K. (2010). Disability as a diversity factor: Implications for human resource practices. Advances in Developing Human Resources, 12, 395–406.

Ottomanelli, L., and Lind, L. (2009). Review of critical factors related to employment after spinal cord injury: Implications for research and vocational services. Journal of Spinal Cord Medicine, 32, 503–531.

Stumbo, N. J., Martin, J. K., and Hedric, B. N. (2009). Assistive technology: Impact on education, employment and independence of individuals with physical disabilities. Journal of Vocational Rehabilitation, 30, 99–110.

Test, D. W., Mazzotti, V. L., Mustian, A. L., Fowler, C. H., Kortering, L., and Kohler, P. (2009). Evidence-based secondary transition predictors for improving postschool outcomes for students with disabilities. Career Development for Exceptional Individuals, 32l, 160–181.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for an RRTC on Employment of Individuals with Physical Disabilities.

The RRTC must contribute to maximizing the employment outcomes of individuals with physical disabilities by:

(a) Conducting research activities in one or more of the following priority areas, focusing on individuals with physical disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with physical disabilities:

(i) Technology to improve employment outcomes for individuals with physical disabilities.

(ii) Individual and environmental factors associated with improved employment outcomes for individuals with physical disabilities.

(iii) Interventions that contribute to improved employment outcomes for individuals with physical disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for individuals with physical disabilities.

(iv) Effects of government practices, policies and programs on employment outcomes for individuals with physical disabilities.

(v) Practices and policies that contribute to improved employment outcomes for transition-aged youth with physical disabilities.

(vi) Vocational rehabilitation (VR) practices that contribute to improved employment outcomes for individuals with physical disabilities.

(b) Focusing its research on one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages must be clearly specified. These stages and their definitions are provided at the beginning of the Proposed Priorities section in this notice.

(c) Serving as a national resource center related to employment for individuals with physical disabilities, their families, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(i) Providing information and technical assistance to service providers, individuals with physical disabilities and their representatives, and other key stakeholders.

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers and other disability service providers, to facilitate more effective delivery of employment services and supports to individuals with physical disabilities.

This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

(iii) Disseminating research-based information and materials related to employment for individuals with physical disabilities.

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Proposed Priority 3—RRTC on Health and Function of Individuals with Intellectual and Developmental Disabilities.

Background:

NIDRR seeks to fund an RRTC that will generate new knowledge about health and function outcomes for persons with intellectual and developmental disabilities across the lifespan and will serve as a national resource center for persons with intellectual and developmental disabilities and their families. Intellectual and developmental disabilities are defined by limitations in adaptive functioning associated with intellectual or physical impairments first evident in childhood (Schalock et al., 2010; Developmental Disabilities Assistance and Bill of Rights Act of 2000). It has been estimated that about 1.6 percent of the U.S. population (about 5 million people) has intellectual and developmental disabilities (Larson et al., 2001).

Findings from research on the health of persons with intellectual and developmental disabilities in this country indicate substantially higher than normal rates of (1) complex health conditions; (2) poorly managed chronic conditions, such as diabetes, heart disease, sensory impairments, or epilepsy; (3) health problems and use of psychotropic medications; (4) limited access to and use of quality preventive health care and health promotion programs; and (5) early onset of conditions and impairments such as Alzheimer's disease among persons with Down syndrome (Horwitz et al., 2000; Krahn et al., 2006; National Task Group on Intellectual Disabilities and Dementia Practice, 2012).

While the health of the general population is routinely monitored through national surveys, the health of individuals with intellectual and developmental disabilities is not. As a result, significant health problems among the population may remain largely undetected (U.S. Department of Health and Human Services, 2002; Centers for Disease Control and Prevention, 2009). At the same time, it is clear that persons with intellectual and developmental disabilities have poorer health and function outcomes than the general population; have costs of health and related care that are disproportionately higher than for persons without intellectual and developmental disabilities; have insufficient access to and use of preventive health services; and have lifestyle and risk factors that are associated with poor health outcomes and premature mortality (Kaiser Commission on Medicaid and the Uninsured, 2006, 2011; Bershadsky et al., 2012; Krahn et al., 2006; Stancliffe et al., 2011; U.S. Department of Health and Human Services, 2002).

References:

Bershadsky, J., Taub, S., Engler, J., Moseley, C., Lakin, K. C, Stancliffe, R., Larson, S., Ticha, R., Bailey, C., and Bradley, V. (2012). Place of residence and preventive health care for intellectual and developmental disabilities services recipients in 20 states. Public Health Reports, 127(5), 475–485.

Centers for Disease Control and Prevention. (2009). U.S. Surveillance of Health of People with Intellectual Disabilities. A White Paper. Available from: *www.cdc.gov/ncbddd/disabilityandhealth/pdf/209537–A_IDmeeting%20short%20version12–14–09.pdf.*

Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Pub. L. 106–402).

Horwitz, S., Kerker, B., Owens, P., and Zigler, E. (2000). The health status and needs of individuals with mental retardation. New Haven: Yale University.

Kaiser Commission on Medicaid and the Uninsured. (2006). Profiles of Medicaid's high cost populations. Menlo Park, CA: Kaiser Family Foundation. Available from: *www.kff.org/medicaid/upload/7565.pdf.*

Kaiser Commission on Medicaid and the Uninsured. (2011). Medicaid home and community-based service programs: Data update. Menlo Park, CA: Kaiser Family Foundation. Available from: *www.kff.org/medicaid/upload/7720–04.pdf*

Krahn, G. L., Hammond, L., and Turner, A. (2006). A cascade of disparities: Health and health care access for people with intellectual disabilities. Mental Retardation and Developmental Disabilities Research Reviews, 12, 22–27.

Larson, S. A., Lakin, K. C., Anderson, L., Lee, N. K., Lee, J. K., and Anderson, D. (2001). Prevalence of mental retardation and developmental disabilities: Estimates from the 1994/1995 National Health Interview Survey Disability Supplements. American Journal on Mental Retardation, 106(3), 231–252.

National Task Group on Intellectual Disabilities and Dementia Practice. (2012). ''My thinker's not working'': A national strategy for enabling adults with intellectual disabilities affected by dementia to remain in their community and receive quality supports. Available from: *www.aadmd.org/ntg/thinker.*

Schalock, R. L., Borthwick-Duffy, S. A., Bradley, V. J., Buntinx, W. H. E., Coulter, D. L., Craig, E. M., Gomez, S. C., Lachapelle, Y., Luckasson, R., Reeve, A., Shogren, K. A., Snell, M. E., Spreat, S., Tasse, M. J., Thompson, J. R., Verdugo-Alonso, M. A., Wehmeyer, M. L., and Yeager, M. H. (2010). Intellectual disability: Definition, classification, and systems of supports (11th ed.). Washington, DC: American Association on Intellectual and Developmental Disabilities.

Stancliffe, R., Lakin, K. C., Larson, S., Taub, S., Engler, J., Bershadsky, J., and Fortune, J., (2011). Overweight and obesity among adults with intellectual disabilities who use intellectual disability/developmental disability services in 20 U.S. States. American Journal on Intellectual and Developmental Disabilities, 116(6), 401–418.

U.S. Department of Health and Human Services. (2002). Closing the gap: A national blueprint to improve the health of persons with mental retardation. Report of the Surgeon General's Conference on Health Disparities and Mental Retardation. Washington, DC: U.S. Department of Health and Human Services, Office of the Surgeon General.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for an RRTC on Health and Function of Individuals with Intellectual and Developmental Disabilities.

The RRTC must contribute to maximizing the health and function outcomes of individuals with intellectual and/or developmental disabilities by:

(a) Conducting research activities in one or more of the following priority areas, focusing on individuals with intellectual and developmental disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with intellectual and developmental disabilities:

(i) Technology to improve health and function outcomes for individuals with

intellectual and developmental disabilities.

(ii) Individual and environmental factors associated with improved access to rehabilitation and health care and improved health and function outcomes for individuals with intellectual and developmental disabilities.

(iii) Interventions that contribute to improved health and function outcomes for individuals with intellectual and developmental disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for the specified population.

(iv) Effects of government practices, policies and programs on health care access and on health and function outcomes for individuals with intellectual and developmental disabilities.

(v) Practices and policies that contribute to improved health and function outcomes for transition-aged youth with intellectual and developmental disabilities.

(b) Focusing its research on one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages must be clearly specified. These stages and their definitions are provided at the beginning of the Proposed Priorities section in this notice.

(c) Serving as a national resource center related to health and function for individuals with intellectual and developmental disabilities, their families, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(i) Providing information and technical assistance to service providers, individuals with intellectual and developmental disabilities and their representatives, and other key stakeholders.

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers and other disability service providers, to facilitate more effective delivery of services to individuals with intellectual and developmental disabilities. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

(iii) Disseminating research-based information and materials related to health and function for individuals with intellectual and developmental disabilities.

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Proposed Priority 4—RRTC on Community Living and Participation for Individuals with Intellectual and Developmental Disabilities.

Background:

NIDRR seeks to fund an RRTC that will generate new knowledge about community living and participation outcomes for individuals with intellectual and developmental disabilities and will serve as a national resource center on community living and participation for individuals with intellectual and developmental disabilities and their families. Intellectual and developmental disabilities are defined by limitations in adaptive functioning associated with substantial intellectual or physical impairments first evident in childhood (Schalock et al., 2010; Developmental Disabilities Assistance and Bill of Rights Act of 2000. It has been estimated that about 1.6 percent of the U.S. population (about 5 million people) has intellectual and developmental disabilities (Larson et al., 2001).

There have been significant changes in the nature of services provided to individuals with intellectual and developmental disability over the last four decades. Since the late 1960s, public institution placements of individuals with intellectual and developmental disabilities have decreased by more than 85 percent (Larson et al., 2012). Individuals with intellectual and developmental disabilities currently receive a wide range of community services. These include personal care and other residential support; physical, occupational, speech, and other therapies; vocational rehabilitation and other employment supports; and respite care and other assistance to family caregivers. These services are financed primarily through various Medicaid programs, including Medicaid Home and Community Based Services. Demand for these services outweighs supply. There are long waiting lists, estimated to include 120,000 to 300,000 persons nationally, depending on the definition of ''persons waiting'' (Larson et al., 2012; Kaiser Family Foundation, 2009). In the past decade, most of the growth in service recipients has come from persons living with family members (Larson et al., 2012).

Research on outcomes for persons receiving community-based supports, while consistently showing better outcomes than for persons receiving institutional care (Stancliffe & Lakin, 2005), shows that persons with intellectual and developmental disabilities receiving community-based supports have less choice, less participation, fewer relationships, and more loneliness than persons who do not have intellectual and developmental disabilities (Stancliffe et al., 2007; McVilly et al., 2006). Another major challenge relates to providing appropriate support of all kinds, including ensuring availability of well-trained direct support workers, for the steadily growing number of individuals with intellectual and developmental disabilities who continue to live with family members into adulthood.

References:

Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Pub. L. 106–402).

Kaiser Family Foundation. (2009). Medicaid home and community-based services: Data update. Washington, DC: Kaiser Commission on Medicaid and the Uninsured.

Larson, S.A., Lakin, K.C., Anderson, L., Lee, N.K., Lee, J.K., and Anderson, D. (2001). Prevalence of mental retardation and developmental disabilities: Estimates from the 1994/1995 National Health Interview Survey Disability Supplements. American Journal on Mental Retardation, 106(3), 231–252.

Larson, S.A., Ryan, A., Salmi, P., Smith, D., and Wuorio, A. (2012). Residential service for persons with developmental disabilities: Status and trends through 2010. Minneapolis: University of Minnesota, Research and Training Center on Community Living.

McVilly, K.R., Stancliffe, R.J., Parmenter, T.R., and Burton-Smith, R.M. (2006). ''I get by with a little help from my friends'': Adults with intellectual disability discuss loneliness. Journal of Applied Research in Intellectual Disabilities, 19(2), 191–203.

Schalock, R.L., Borthwick-Duffy, S.A., Bradley, V.J., Buntinx, W.H.E., Coulter, D.L., Craig, E.M., Gomez, S.C., Lachapelle, Y., Luckasson, R., Reeve, A., Shogren, K.A., Snell, M.E., Spreat, S., Tasse, M.J., Thompson, J.R., Verdugo-Alonso, M.A., Wehmeyer, M.L., and Yeager, M.H. (2010). Intellectual disability: Definition, classification, and systems of supports (11th ed.). Washington, DC: American Association on Intellectual and Developmental Disabilities.

Stancliffe, R.J., and Lakin, C.K. (2005). Costs and outcomes of community services for people with intellectual disabilities. Baltimore, MD: Paul H. Brookes Publishing.

Stancliffe, R.J., Lakin, C.K., Doljanac, R., Byun, S.Y., Taub, S., Chiri, G., and Ferguson, P. (2007). Loneliness and living arrangements. Intellectual and Developmental Disabilities, 45(6), 380–390.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for an RRTC on Community Living and Participation for Individuals with Intellectual and Developmental Disabilities.

The RRTC must contribute to improving the community living and participation outcomes of individuals with intellectual and developmental disabilities by:

(a) Conducting research activities in one or more of the following priority areas, focusing on individuals with intellectual and developmental disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with intellectual and developmental disabilities:

(i) Technology to improve community living and participation outcomes for individuals with intellectual and developmental disabilities.

(ii) Individual and environmental factors associated with improved community living and participation outcomes for individuals with intellectual and developmental disabilities.

(iii) Interventions that contribute to improved community living and participation outcomes for individuals with intellectual and developmental disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for individuals with disabilities.

(iv) Effects of government practices, policies and programs on community living and participation outcomes for individuals with intellectual and developmental disabilities.

(v) Practices and policies that contribute to improved community living and participation outcomes for transition-aged youth with intellectual and developmental disabilities.

(b) Focusing its research on one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages must be clearly specified. These stages and their definitions are provided at the beginning of the Proposed Priorities section in this notice.

(c) Serving as a national resource center related to community living and participation for individuals with intellectual and developmental disabilities, their families, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(i) Providing information and technical assistance to service providers, individuals with intellectual and developmental disabilities and their representatives, and other key stakeholders.

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers and other disability service providers, to facilitate more effective delivery of services to individuals with intellectual and developmental disabilities. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

(iii) Disseminating research-based information and materials related to community living and participation for individuals with intellectual and developmental disabilities.

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these proposed priorities only upon a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that these proposed priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the RRTCs have been completed successfully, and the proposed priorities will generate new knowledge through research. The new RRTCs will generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities in the areas of community living and participation, employment, and health and function.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 7, 2013.

Michael Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–03203 Filed 2–11–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2012–0063; 4500030114]

RIN 1018–AY24

Endangered and Threatened Wildlife and Plants; Endangered Status and Designation of Critical Habitat for the Jemez Mountains Salamander

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the September 12, 2012, proposed endangered status for the Jemez Mountains salamander and proposed designation of critical habitat under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis and draft environmental assessment of the proposed designation of critical habitat for the Jemez Mountains salamander, and an amended required determinations section of the proposal. We are proposing minor amendments to the proposed critical habitat units based on updated mapping data. In addition, we are proposing minor changes to clarify the primary constituent elements. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated draft economic analysis and draft environmental assessment, the amended required determinations section, and the proposed changes to the primary constituent elements and critical habitat units described in this document. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We will consider comments received on or before March 14, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Submit comments on the listing proposal to Docket No. FWS–R2–ES–2012–0063, and submit comments on the critical habitat proposal and associated draft economic analysis to Docket No. FWS–R2–ES–2013–0005. See **SUPPLEMENTARY INFORMATION** for an explanation of the two dockets.

(2) *By hard copy:* Submit comments on the listing proposal by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2012–0063; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203. Submit comment on the critical habitat proposal and draft economic analysis by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2013–0005; Division of Policy and

Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Wally Murphy, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE., Albuquerque, NM 87113; by telephone 505–346–2525; or by facsimile 505–346–2542. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed listing and designation of critical habitat for the Jemez Mountains salamander (*Plethodon neomexicanus*) that was published in the **Federal Register** on September 12, 2012 (77 FR 56482), our draft economic analysis and draft environmental assessment of the proposed designation, the amended required determinations provided in this document, and the proposed changes to the primary constituent elements and critical habitat units described in this document. We will consider information and recommendations from all interested parties.

We are also notifying the public that we will publish two separate rules for the final listing determination and the final critical habitat determination for the Jemez Mountains salamander. The final listing rule will publish under the existing docket number, FWS–R2–ES–2012–0063, and the final critical habitat designation will publish under docket number FWS–R2–ES–2013–0005.

We will publish two separate rules because we are basically engaging in two separate rulemaking actions. The Secretary of the Interior has delegated authority to the Director of the Service to make determinations regarding listing species under the Act, which the Act requires to be based entirely on science. However, in making critical habitat designations, the Act requires that we consider economic implications as well as science, and, therefore, these rules are subject to a higher level of governmental review and signature. In addition, as the result of a 2011 settlement agreement for a multidistrict lawsuit regarding the listing process, we must publish numerous rulemaking documents on a prescribed schedule until 2017, and dividing this rulemaking action into two separate rules will help us adhere to this schedule.

We request that you provide comments specifically on our listing determination under the existing docket number FWS–R2–ES–2012–0063. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and regulations that may be addressing those threats.

(2) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(3) Any information on the biological or ecological requirements of the species, and ongoing conservation measures for the species and its habitat.

(4) Current or planned activities in the areas occupied by the species and possible impacts of these activities on this species.

We request that you provide comments specifically on the critical habitat determination under docket number FWS–R2–ES–2013–0005. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(5) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(6) Specific information on:

(a) The amount and distribution of Jemez Mountains salamander habitat;

(b) What areas occupied by the species at the time of listing that contain features essential for the conservation of the species we should include in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential to the conservation of the species and why.

(7) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(8) Any foreseeable economic, national security, or other relevant impacts that may result from designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas from the proposed designation that are subject to these impacts.

(9) Information on the extent to which the description of economic impacts in the draft economic analysis is complete and accurate.

(10) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the draft economic analysis and draft environmental assessment, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(11) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you submitted comments or information on the proposed rule (77 FR 56482; September 12, 2012) during the initial comment period from September 12, 2012, to November 13, 2012, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final rules.

You may submit your comments and materials concerning the September 12, 2012, proposed rule, the draft economic analysis, the draft environmental assessment, the amended required determinations provided in this document, or the proposed changes to the primary constituent elements and critical habitat units described in this document by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment 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.

Comments and materials we receive, as well as supporting documentation we used, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0063 (for the proposed listing rule) and Docket No. FWS–R2–ES–2013–0005 (for the proposed critical habitat designation and draft economic analysis), or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0063 and the draft economic analysis at Docket No. FWS–R2–ES–2013–0005, or by mail from the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for the Jemez Mountains salamander in this document. For more information on previous Federal actions concerning the Jemez Mountains salamander, or for more information on the Jemez Mountains salamander or its habitat, refer to the proposed endangered status for the Jemez Mountains salamander and proposed designation of critical habitat published in the **Federal Register** on September 12, 2012 (77 FR 56482), which is available online at *http://www.regulations.gov* (at Docket Number FWS–R2–ES–2012–0063) or from the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

On September 12, 2012 (77 FR 56482), we published a proposed rule to list and designate critical habitat for the Jemez Mountains salamander. We proposed to designate approximately 90,789 acres (ac) (36,741 hectares (ha)) in two units located in Los Alamos, Rio Arriba, and Sandoval Counties, New Mexico, as critical habitat. That proposal had a 60-day comment period ending November 13, 2012. We will submit for publication in the **Federal Register** a final listing and a critical habitat designation for the Jemez Mountains salamander on or before September 12, 2013.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Changes from the Previously Proposed Critical Habitat Designation

Amended Primary Constituent Elements (PCEs) for the Jemez Mountains Salamander

We are proposing to amend the PCEs that we proposed in our September 12, 2012, proposed rule (77 FR 56482) to provide additional clarification to PCEs 1 and 3a. The overall intent of proposed PCEs has not changed. Based on the needs and our current knowledge of the life history, biology, and ecology of the species, and the habitat requirements for sustaining the essential life-history functions of the species, we have determined that, in total, the PCEs essential to the conservation of the Jemez Mountains salamander are:

(1) Moderate to high tree canopy cover, typically 50 to 100 percent canopy closure, that provides shade and maintains moisture and high relative humidity at the ground surface, and:

(a) Consists of the following tree species alone or in any combination: Douglas fir (*Pseudotsuga menziesii*); blue spruce (*Picea pungens*); Engelman spruce (*Picea engelmannii*); white fir (*Abies concolor*); limber pine (*Pinus flexilis*); ponderosa pine (*Pinus ponderosa*); and aspen (*Populus tremuloides*); and

(b) Has an understory that predominantly comprises: Rocky Mountain maple (*Acer glabrum*); New Mexico locust (*Robinia neomexicana*); oceanspray (*Holodiscus* sp.); or shrubby oaks (*Quercus* spp.).

(2) Elevations from 6,988 to 11,254 feet (2,130 to 3,430 meters).

(3) Ground surface in forest areas with:

(a) Moderate to high volumes of large fallen trees and other woody debris, especially coniferous logs at least 10 inches (25 centimeters) in diameter, particularly Douglas fir, which are in contact with the soil in varying stages of decay from freshly fallen to nearly fully decomposed; or

(b) Structural features, such as rocks, bark, and moss mats that provide the species with food and cover.

(4) Underground habitat in forest or meadow areas containing interstitial spaces provided by:

(a) Igneous rock with fractures or loose rocky soils;

(b) Rotted tree root channels; or

(c) Burrows of rodents or large invertebrates.

Amended Proposed Critical Habitat Units

In this publication, we are proposing to revise the size of the two previously proposed critical habitat units, based on recently finalized map data that were still in draft form during our initial analysis. The updated map data resulted in minor changes in size and ownership in both proposed units. There is a slight reduction in the overall area proposed, with some reduction of private lands and addition of a small parcel of State lands. In the September 12, 2012 (77 FR 56482), proposed rule, we proposed a total of approximately 90,789 ac (36,741 ha) in two units. Based on new map data, we are updating the approximate area and land ownership of both proposed critical habitat units; the updates are shown in Table 1. The total Federal proposed critical habitat consists of 56,897 ac (23,025 ha) of U.S. Forest Service lands, 23,745 ac (9,609 ha) of Valles Caldera National Preserve lands, and 7,198 ac (2913 ha) of National Park Service lands. Also, we identified a 73-ac (30-ha) parcel owned by New Mexico Department of Game and Fish in the Western Jemez Mountains Unit. Based on these revisions, we are now proposing a total of approximately 90,716 ac (36,711 ha) in two critical habitat units, which is 73 ac (30 ha) less than what we previously proposed. Such a small change in the acreage does not affect the accuracy of the maps published in the September 12, 2012 (77 FR 56482), proposed rule.

TABLE 1—PROPOSED CRITICAL HABITAT UNITS FOR THE JEMEZ MOUNTAINS SALAMANDER

Critical habitat unit	Land ownership by type	Size of unit in acres (Hectares)
1. Western Jemez Mountains Unit	Federal	41,466 (16,781)
	Private	906 (367)
	State	73 (30)
	Total Unit 1	42,445 (17,177)
2. Southeastern Jemez Mountains Unit	Federal	46,374 (18,767)
	Private	1,897 (768)
	Total Unit 2	48,271 (19,535)
Total	Federal	87,840 (35,548)
	Private	2,803 (1,134)
	State	73 (30)
	Total	90,716 (36,711)

Note: Area sizes may not sum due to rounding.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis and draft environmental assessment concerning the proposed critical habitat designation, which are available for review and comment (see **ADDRESSES** section).

Draft Economic Analysis

The purpose of the draft economic analysis is to identify and analyze the potential economic impacts associated with the proposed critical habitat designation for the Jemez Mountains salamander. The draft economic analysis describes the economic impacts of all potential conservation efforts for the Jemez Mountains salamander; some of these costs will likely be incurred regardless of whether we designate critical habitat. The economic impact of the proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs; these are the costs we may consider in the final designation of critical habitat when evaluating the benefits of excluding particular areas under section 4(b)(2) of the Act. The analysis forecasts both baseline and incremental impacts likely to occur if we finalize the proposed critical habitat designation. For a further description of the methodology of the analysis, see Chapter 2, ''FRAMEWORK FOR THE ANALYSIS,'' of the draft economic analysis.

The draft economic analysis provides estimated costs of the foreseeable potential economic impacts of the proposed critical habitat designation for the Jemez Mountains salamander over the next 20 years, which was determined to be the appropriate period for analysis because limited planning information is available for most activities to forecast activity levels for projects beyond a 20-year timeframe. It identifies potential incremental costs as a result of the proposed critical habitat designation; these are those costs attributed to critical habitat over and above those baseline costs attributed to listing.

The draft economic analysis quantifies economic impacts of Jemez Mountains salamander conservation efforts associated with the following categories of activity: (1) Severe wildland fire, (2) fire management, (3) other Federal land management, (4) private development, (5) transportation, and (6) livestock grazing. Economic impacts are estimated for severe wildland fire, fire management, other Federal land management, livestock grazing, and transportation. No impacts are forecast for private development, because no projects with a Federal nexus were identified within the study area.

Total present value incremental impacts are approximately $260,000 over 20 years following the designation, assuming a 7 percent discount rate ($330,000 assuming a 3 percent discount rate). All incremental costs are administrative in nature and result from

the consideration of adverse modification in section 7 consultations. Both proposed units are expected to experience similar levels of incremental impact. Differences in forecast impacts across the two units are predominately a result of the distribution of land ownership, rather than differences in activities across units.

As we stated earlier, we are soliciting data and comments from the public on the draft economic analysis, as well as all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Draft Environmental Assessment

The purpose of the draft environmental assessment, prepared under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), is to identify and disclose the environmental consequences resulting from the proposed action of designating critical habitat for the Jemez Mountains salamander. In the draft environmental assessment, two alternatives are evaluated: Alternative A, the proposed rule, and the no action alternative. Under Alternative A, critical habitat units on private and other lands could potentially be excluded in the final rule based on economic impact, national security, or other relevant impacts. We did not propose exclusion of private or any other lands. Alternative A is the current proposal, and the no action alternative is equivalent to no designation of critical habitat for the Jemez Mountains salamander. The no action alternative is required by NEPA for comparison to the other alternatives analyzed in the draft environmental assessment. Our preliminary determination is that designation of critical habitat for the Jemez Mountains salamander will not have direct impacts on the environment. However, we will further evaluate this issue as we complete our final environmental assessment.

As we stated earlier, we are soliciting data and comments from the public on the draft environmental assessment, as well as all aspects of the proposed rule. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the comment period on the environmental consequences resulting from our designation of critical habitat.

Required Determinations—Amended

In our September 12, 2012, proposed rule (77 FR 56482), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the draft economic analysis. We have now made use of the draft economic analysis data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on the draft economic analysis data, we are amending our required determinations concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), E.O. 12630 (Takings), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Based on our draft economic analysis of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments we receive, we may revise this determination as part of our final rulemaking.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for the Jemez Mountains salamander would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities, such as fire management, private development, transportation, and livestock grazing. In order to determine whether it is appropriate for our agency to certify that this proposed rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the Jemez Mountains salamander is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be

incorporated into the existing consultation process.

In the draft economic analysis, we evaluated the potential economic effects on small entities resulting from implementation of conservation actions related to the proposed designation of critical habitat for the Jemez Mountains salamander. The designation of critical habitat for the salamander is unlikely to directly affect any small entities. Ninety-seven percent of land in the designation is Federally owned. Anticipated incremental impacts in proposed critical habitat are primarily related to consultations on fire management and other Federal land management activities (comprising approximately 99 percent of the annual anticipated incremental costs of the designation). The remaining forecast impacts are anticipated to be conducted for road and highway maintenance projects. Little to no impact to third parties is expected associated with these activities. For this reason, there would be little to no impacts to small entities as a result of critical habitat designation for the salamander. Please refer to the draft economic analysis of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. Information for this analysis was gathered from the Small Business Administration, stakeholders, and the Service. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the Jemez Mountains salamander in a takings implications assessment. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to allow actions that do require Federal funding or permits to go forward. The takings implications assessment concludes that this proposed designation of critical habitat does not pose significant takings implications for lands within or affected by the designation. However, we will further evaluate this issue as we complete our final economic analysis, and review and revise this assessment as appropriate.

National Environmental Policy Act (NEPA)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).] However, when the range of the species includes States within the Tenth Circuit, such as that of the Jemez Mountains salamander, under the Tenth Circuit ruling in *Catron County Board of Commissioners* v. *U.S. Fish and Wildlife Service,* 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for critical habitat designation. In accordance with the Tenth Circuit, we have completed a draft environmental assessment to identify and disclose the environmental consequences resulting from the proposed designation of critical habitat for the Jemez Mountains salamander. Our preliminary determination is that the designation of critical habitat for the Jemez Mountains salamander would not have direct impacts on the environment. However, we will further evaluate this issue as we complete our final environmental assessment.

Authors

The primary authors of this notice are the staff members of the New Mexico Ecological Services Field Office, Southwest Region, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to further amend the proposed amendments to part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as published on September 12, 2012, at 77 FR 56482, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. In § 17.95(d), in the proposed entry for ''Jemez Mountains Salamander (*Plethodon neomexicanus*)'', as published at 77 FR 56482, revise proposed paragraph (d)(2) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(d) *Amphibians.*

* * * * *

Jemez Mountains Salamander (*Plethodon neomexicanus*)

* * * * *

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the Jemez Mountains salamander consist of four components:

(i) Moderate to high tree canopy cover, typically 50 to 100 percent canopy closure, that provides shade and maintains moisture and high relative humidity at the ground surface, and:

(A) Consists of the following tree species alone or in any combination: Douglas fir (*Pseudotsuga menziesii*); blue spruce (*Picea pungens*); Engelman spruce (*Picea engelmannii*); white fir (*Abies concolor*); limber pine (*Pinus flexilis*); ponderosa pine (*Pinus ponderosa*); and aspen (*Populus tremuloides*); and

(B) Has an understory that predominantly comprises: Rocky Mountain maple (*Acer glabrum*); New Mexico locust (*Robinia neomexicana*); oceanspray (*Holodiscus* sp.); or shrubby oaks (*Quercus* spp.).

(ii) Elevations from 6,988 to 11,254 feet (2,130 to 3,430 meters).

(iii) Ground surface in forest areas with:

(A) Moderate to high volumes of large fallen trees and other woody debris, especially coniferous logs at least 10 inches (25 centimeters) in diameter, particularly Douglas fir, which are in contact with the soil in varying stages of decay from freshly fallen to nearly fully decomposed; or

(B) Structural features, such as rocks, bark, and moss mats that provide the species with food and cover.

(iv) Underground habitat in forest or meadow areas containing interstitial spaces provided by:

(A) Igneous rock with fractures or loose rocky soils;

(B) Rotted tree root channels; or

(C) Burrows of rodents or large invertebrates.

* * * * *

Dated: February 1, 2013.

Michael J. Bean

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–03111 Filed 2–11–13; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 78, No. 29

Tuesday, February 12, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice; Solicitation of nominees to the Lake Tahoe Basin Federal Advisory Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C., App. 2, the United States Department of Agriculture (USDA) announces solicitation of nominees to fill vacancies on the Lake Tahoe Basin Federal Advisory Committee (Committee).

DATES: Nominations must be received on or before March 14, 2013. Nominations must contain a completed application packet that includes the nominees' name, resume, and completed Form AD–755, Advisory Committee or Research and Promotion Background Information. The package must be sent to the address below.

ADDRESSES: Arla Haines, USDA Forest Service, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, CA 96150. Telephone: (503) 543–2773,

FOR FURTHER INFORMATION CONTACT: Arla Haines, USDA Forest Service, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, CA 96150. Telephone: (503) 543–2773, Email: *ashains@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Agriculture established the Committee on July 13, 1998 to provide a critical role in advising the Secretary of Agriculture and the Lake Tahoe Federal Interagency Partnership on coordinating federal programs to achieve the goals of the Lake Tahoe Environmental Improvement Program. The purpose of the Committee is to provide advice to the Secretary of Agriculture and to the Federal Interagency Partnership on how to work cooperatively to protect the extraordinary natural, recreational, and ecological resources in the Lake Tahoe Region, pursuant to Executive Order 13057, issued July 26, 1997.

Committee Membership

The Committee will be comprised of no more than 20 members approved by the Secretary of Agriculture. Committee membership will be fairly balanced in terms of the points of view represented, functions to be performed, and will represent a broad array of interests in the Lake Tahoe Basin. The Committee members will serve staggered terms up to 3 years, and will meet a minimum of 4 times a year, alternating locations between the North and South Shore areas. No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Committee.

The Committee shall include representation in the following areas:

1. Two representatives as Members-At-Large; and

2. One representative in the following sectors: a) Gaming, b) Environmental, c) National Environmental, d) Ski Resorts, e) North Shore Economic/Recreation, f) South Shore Economic/Recreation, g) Resorts, h) Education, i) Property Rights Advocates, j) Science and Research, k) California local government, l) Nevada local government, m) Washoe tribe, n) State of Califonia, o) State of Nevada, p) Tahoe Regional Planning Agency, q) Labor, and r) Transportation.

Nominations and Application Information for the Committee

The appointment of members to the Committee will be made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the vacancies listed above. To be considered for membership, nominees must—

1. Identify what vacancy they would represent and how they are qualified to represent that vacancy;

2. State why they want to serve on the committee and what they can contribute;

3. Show their past experience in working successfully as part of a working group on how to work cooperatively to protect natural, recreational, and ecological resources; and Complete Form AD–755. You may contact the person above or the following Web site: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.*

All nominations will be vetted by the Agency. Members of the Committee will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee, subject to approval by the DFO.

Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Departments, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: January 28, 2013.

Gregory Parham,

Acting Assistant Secretary of Administration.

[FR Doc. 2013–03128 Filed 2–11–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule will meet in Albuquerque, NM. The committee operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to provide advice and recommendations on the implementation of the National Forest System Land Management Rule. The meeting is also open to the public. The purpose of the meeting is to advance the

dialogue from the first meeting and build a broader understanding of issues associated with implementation of the new planning rule. Another objective of the meeting is to continue to define areas where the committee can provide the most valuable input and recommendations for implementation of the new rule.

DATES: The meeting will be held on February 19–22, 2012, from 9 a.m. to 5 p.m., Mountain Time.

ADDRESSES: The meeting will be held at the Albuquerque Service Center Academy located at 4000 Masthead NE., Albuquerque, NM 87109; Rooms 131–133.

Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 1601 N Kent Street, Arlington, VA 22209, 6th Floor. Please call ahead to 202–205–0895 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Helwig, Ecosystem Management Coordination, 202–205–0892, *jahelwig@fs.fed.us* or Chalonda Jasper, Ecosystem Management Coordination, 202–260–9400, *cjasper@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following business will be conducted: (1) Determine and define committee work plans, (2) discuss findings from smaller working groups, and (3) administrative tasks. Further information, including the meeting agenda, will be posted on the Planning Rule Advisory Committee Web site at *http://www.fs.usda.gov/main/planningrule/committee.*

Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before the meeting. Written comments must be sent to USDA Forest Service, Ecosystem Management Coordination, 201 14th Street SW., Mail Stop 1104, Washington, DC, 20250–1104. Comments may also be sent via email to Jennifer Helwig at *jahelwig@fs.fed.us* or Chalonda Jasper at *cjasper@fs.fed.us*, or via facsimile to 202–205–1012. A summary of the meeting will be posted at *http://www.fs.usda.gov/main/planningrule/committee* within 21 days of the meeting.

Meeting Accommodations: If you require sign language interpreting, assistive listening devices or other reasonable accommodation, please request this in advance of the meeting by contacting the person listed in **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case-by-case basis.

Dated: January 30, 2013.

Calvin N. Joyner,

Associate Deputy Chief, National Forest System.

[FR Doc. 2013–03129 Filed 2–11–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1882]

Approval of Subzone Status; Zimmer Manufacturing BV; Ponce, Puerto Rico

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 subzones when existing zone facilities cannot serve the specific use involved;

Whereas, Codezol, C.D., grantee of Foreign-Trade Zone 163, has made application to the Board for the establishment of a subzone at the facility of Zimmer Manufacturing BV located in Ponce, Puerto Rico (FTZ Docket B–81–2012, docketed 11/8/2012);

Whereas, notice inviting public comment has been given in the **Federal Register** (77 FR 68102, 11/15/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves subzone status at the facility of Zimmer Manufacturing BV located in Ponce, Puerto Rico (Subzone 163A), 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 6th day of February 2013.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest: _____

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–03248 Filed 2–11–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–811]

Purified Carboxymethylcellulose From the Netherlands: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 2, 2012, the Department of Commerce (the Department) published its preliminary results of the 2010–2011 administrative review of the antidumping duty order on purified carboxymethylcellulose (purified CMC) from the Netherlands.[1] This review covers two respondents, Akzo Nobel Functional Chemicals B.V. (Akzo Nobel) and CP Kelco B.V. (CP Kelco). The period of review (POR) is July 1, 2010, through June 30, 2011. The final weighted-average dumping margin is listed below in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* February 12, 2013.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Room 7850, Washington, DC 20230; telephone (202) 482–3362 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

[1] *See Purified Carboxymethylcellulose From the Netherlands: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Intent To Rescind,* 77 FR 46024 (August 2, 2012) (*Preliminary Results*).

Background

On August 2, 2012, the Department published the *Preliminary Results.* We invited interested parties to comment on the *Preliminary Results.* We timely received case and rebuttal briefs from interested parties.

On December 26, 2012, we issued a post-preliminary analysis in which we addressed the targeted dumping allegations made by petitioner, Aqualon Company, a unit of Hercules Incorporated, and invited comments from interested parties.[2] We timely received additional briefs and rebuttal briefs from interested parties commenting on the Post-Preliminary Analysis.

Period of Review

The POR is July 1, 2010, through June 30, 2011.

Scope of the Order

The merchandise covered by this order is all purified carboxymethylcellulose, sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. Purified CMC does not include unpurified or crude CMC, CMC Fluidized Polymer Suspensions, and CMC that is cross-linked through heat treatment. Purified CMC is CMC that has undergone one or more purification operations which, at a minimum, reduce the remaining salt and other by-product portion of the product to less than ten percent. The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3912.31.00. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive. *See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden,* 70 FR 39734 (July 11, 2005) (*Order*).

Determination of No Shipments

As noted in the *Preliminary Results,* we received a no-shipment claim from CP Kelco, and we confirmed this claim with U.S. Customs and Border Protection (CBP). Because we find that the record indicates that CP Kelco did not export subject merchandise to the United States during the POR, we determine that it had no reviewable transactions during the POR.

Our former practice concerning respondents submitting timely no-shipment certifications was to rescind the administrative review with respect to those companies if we were able to confirm the no-shipment certifications through a no-shipment inquiry with CBP. *See Antidumping Duties; Countervailing Duties; Final rule,* 62 FR 27296, 27393 (May 19, 1997); *see also Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results of Antidumping Duty Administrative Review,* 75 FR 76700, 76701 (December 9, 2010). As a result, in such circumstances, we normally instructed CBP to liquidate any entries from the no-shipment company at the deposit rate in effect on the date of entry.

In our May 6, 2003, clarification of the ''automatic assessment'' regulation, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). Because ''as entered'' liquidation instructions do not alleviate the concerns which the May 2003 clarification was intended to address, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by CP Kelco and exported by other parties at the all-others rate. In addition, we continue to find that it is more consistent with the May 2003 clarification not to rescind the review in part in these circumstances but, rather, to complete the review with respect to CP Kelco and issue appropriate instructions to CBP based on the final results of this administrative review. *See* the ''Assessment Rates'' section of this notice below.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs and the post-preliminary comments by parties to this administrative review are addressed in the Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Purified Carboxymethylcellulose (CMC) from the Netherlands from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration (Issues and Decision Memorandum), which is dated concurrently with and hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at http://iaaccess.trade.gov and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

The Department has revised its calculations from the *Preliminary Results* based on its targeted dumping analysis. Accordingly the cash deposit rates and importer-specific assessment rates have changed for the final results. *See* the Issues and Decision Memorandum and the memorandum entitled ''Antidumping Duty Administrative Review of Purified Carboxymethylcellulose (CMC) from the Netherlands: Final Calculation Memorandum from Dena Crossland, International Trade Compliance Analyst, AD/CVD Operations, Office 7, Import Administration, to The File, through Angelica Mendoza, Program Manager, AD/CVD Operations, Import Administration,'' dated January 31, 2013 (CMC Final Calculation Memo) for further discussion.

Final Results of Review

We determine that the following weighted-average dumping margin exists for the period July 1, 2010, through June 30, 2011:

[2] *See* Antidumping Duty Administrative Review of Purified Carboxymethylcellulose (CMC) from the Netherlands: Post-Preliminary Results Analysis Memorandum from Richard Weible, Office Director, AD/CVD Operations, Office 7, to Paul Piquado, Assistant Secretary for Import Administration, through Christian Marsh, Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, dated December 20, 2012 (Post-Preliminary Analysis); *see also* Antidumping Duty Administrative Review of Purified Carboxymethylcellulose (CMC) from the Netherlands: Post-Preliminary Calculation Memorandum from Dena Crossland, International Trade Compliance Analyst, AD/CVD Operations, Office 7, Import Administration, to The File, through Angelica Mendoza, Program Manager, AD/CVD Operations, Import Administration, dated December 20, 2012.

Producer	Weighted-Average Margin (percentage)
Akzo Nobel Functional Chemicals B.V.	9.03

Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), the Department normally calculates an assessment rate for each importer of the subject merchandise covered by the review. In this review, we have calculated, whenever possible, an importer-specific assessment rate or value for merchandise subject to this review as described below.

As noted in the *Preliminary Results,* all of Akzo Nobel's U.S. sales of CMC were constructed-export-price sales (*e.g.,* sales through Akzo Nobel's U.S. affiliate to the unaffiliated purchaser in the United States). Accordingly, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct CBP to assess the resulting percentage margin against the entered customs values for the subject merchandise on each importer's respective POR entries. *See* 19 CFR 351.212(b).

The calculated *ad valorem* rates will be assessed uniformly on all entries made by the respective importers during the POR. Where the assessment rate is above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

As stated above, the Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by reviewed companies for which these companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

The Department intends to issue assessment instructions directly to CBP 15 days after publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Tariff Act of 1930, as amended: (1) The cash deposit rate for Akzo Nobel will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or any previous review or in the less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the investigation, the cash-deposit rate will continue to be the all-others rate of 14.57 percent, which is the all-others rate established by the Department in the LTFV investigation. *See Order.* These cash deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation, which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 31, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

List of Issues Discussed in the Accompanying Issues and Decision Memorandum

Issue 1: Targeted Dumping Methodology
Issue 2: Monthly Time Period Allegation
Issue 3: Cost Database

[FR Doc. 2013–03212 Filed 2–11–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Coast Groundfish Rationalization Sociocultural Study

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 15, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Suzanne Russell (206) 860–3274, or *Suzanne.Russell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a revision and extension of a currently approved information collection. The revision consists of minor changes to the information collection tool.

Historically, changes in fisheries management regulations have been shown to result in impacts to individuals within the fishery. An understanding of social impacts in fisheries—achieved through the

collection of data on fishing communities, as well as on individuals who fish—is a requirement under several federal laws. Laws such as the National Environmental Protection Act and the Magnuson Stevens Fishery Conservation Act (as amended 2007) describe such requirements. The collection of this data not only helps to inform legal requirements for the existing management actions, but will inform future management actions requiring equivalent information.

Literature indicates fisheries rationalization programs have an impact on those individuals participating in the affected fishery. The Pacific Fisheries Management Council implemented a new rationalization program for the Pacific Coast Groundfish limited entry trawl fishery in January 2011. This research aims to continue to study the individuals in the affected fishery after the implementation of the rationalization program. Data collected is correlated to changes in the programs' design elements. In addition, the study will compare results to previous data collection efforts in 2010 and 2012. The data collected will provide updated and more comprehensive descriptions of the industry as well as allow for analysis of changes the rationalization program may create in the fishery. The measurement of these changes will lead to a greater understanding of the social impacts the management measure may have on the individuals in the fishery. To achieve these goals it is critical to continue data collection for comparison to data collected prior to the implementation of the rationalization program, in 2010, and after the first year of implementation in 2012. This study will continue data collection efforts to achieve the stated objectives.

II. Method of Collection

Contact and collaboration with key informants, focus groups, paper surveys, electronic surveys, and in-person interviews will be utilized in combination to obtain the greatest breadth of information as possible.

III. Data

OMB Control Number: 0648–0606.

Form Number: None.

Type of Review: Regular (revision and extension of a current information collection).

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 600.

Estimated Time Per Response: 1 hour and 30 minutes.

Estimated Total Annual Burden Hours: 1,000.

Estimated Total Annual Cost to Public: $0 in recordkeeping/recording costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 6, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–03066 Filed 2–11–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; National Estuaries Restoration Inventory

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 15, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Perry Gayaldo, (301) 427–8665 or *Perry.Gayaldo@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a revision and extension of a currently approved information collection.

Collection of estuary habitat restoration project information (e.g., location, habitat type, goals, status, monitoring information) will be undertaken in order to populate a restoration project database mandated by the Estuary Restoration Act of 2000. The database is intended to provide information to improve restoration methods, provide the basis for required reports to Congress, and track estuary habitat acreage restored. Estuary habitat restoration project information will be submitted by habitat restoration project managers and will be accessible to the public via the Internet for data queries and project reports.

The collection method will be revised to only include paper or electronic form instead of web-based data entry forms, as maintaining the web-based data entry option is not cost-effective.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0479.

Form Number: None.

Type of Review: Regular submission (revision and extension of a currently approved collection).

Affected Public: Non-profit institutions; State, local, or tribal government.

Estimated Number of Respondents: 32.

Estimated Time Per Response: Data entry of new projects, 4 hours; updates to existing projects, 2 hours.

Estimated Total Annual Burden Hours: 103.

Estimated Total Annual Cost to Public: $100 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 6, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–03068 Filed 2–11–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC492

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Amendment 24 Workgroup will hold an online webinar, which is open to the public.

DATES: The Workgroup's work session will begin at 1 p.m. on Thursday, February 28 and continue until business is completed on that day.

ADDRESSES: To attend the Ad Hoc Amendment 24 Workgroup webinar, please reserve your seat by visiting *https://www2.gotomeeting.com/register/789088682.* If requested, enter your name, email address, and the webinar id, which is 789–088–682. Once registered, participants will receive a confirmation email message that contains detailed information about viewing the event. To only join the audio teleconference of the webinar from the U.S. or Canada, call the toll number +1 (702) 489–0007 (note: this is not a toll-free number) and use the access code 237–761–508 when prompted.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Fishery Management Council, telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The Council formed the Amendment 24 Workgroup to develop proposals for modifying the process to periodically establish and adjust harvest levels and management measures for the Pacific Coast groundfish fishery. The Workgroup will review the proposed action and range of alternatives for the setting harvest specifications and management measures for the Pacific Coast groundfish fishery for a 10-year period, 2015–24. On or about February 21 a white paper describing the proposed action and range of alternatives will be available on the Council's Web site (*www.pcouncil.org*) as part of the briefing materials for the March 2013 Pacific Fishery Management Council meeting. The Council may adopt the alternatives for analysis in an environmental assessment or environmental impact statement, as required by the National Environmental Policy Act. The Workgroup is expected to prepare a report for the Council containing their comments on the proposal.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document 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 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 Mr. Kris Kleinschmidt, (503) 820–2280, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 7, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03149 Filed 2–11–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC489

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council will convene a meeting of the Ad Hoc Artificial Substrate Advisory Panel (AP).

DATES: The meeting will convene at 8:30 a.m. and conclude by 4 p.m. on Thursday, February 28, 2013.

ADDRESSES: The meeting will be held at the Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. John Froeschke, Fishery Biologist-Statistician; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630 x235.

SUPPLEMENTARY INFORMATION: The Ad Hoc Artificial Substrate AP will meet to discuss artificial substrates and their potential consideration as an Essential Fish Habitat in Gulf of Mexico fisheries. Specifically, the AP will evaluate potential implications including regulatory, fishery, or habitat impacts of consideration of artificial substrates as essential fish habitat (EFH) in accordance with the regulations at 50 CFR Part 600 Subpart J. Items for consideration may include types of structures to be considered, potential conflicts with existing regulatory measures, and requirements to minimize impacts of fishing to the extent practicable. The AP will consider if new information exists that demonstrates artificial substrates, including fixed petroleum leg platforms and artificial reefs, provide habitat functions to federally-managed species in the Gulf of Mexico meeting the criteria identified and described as essential fish habitat (EFH) in accordance with the regulations at 50 CFR Part 600 Subpart J.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630.

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management

Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take 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 Kathy Pereira at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: February 7, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine, Fisheries Service.

[FR Doc. 2013–03148 Filed 2–11–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Proposed Information Collection; Comment Request; State and Local Implementation Grant Program Application Documentation and Reporting Requirements

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 15, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be sent to Laura M. Pettus, Program Specialist, Office of Telecommunications and Information Applications, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4878, Washington, DC 20230 (or via email at *lpettus@ntia.doc.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Middle Class Tax Relief and Job Creation Act of 2012 (Act, Pub. L. 112–96, 126 Stat. 156 (2012).) (Act) was signed by the President on February 22, 2012. The Act meets a long-standing priority of the Administration, as well as a critical national infrastructure need, to create a single nationwide, interoperable public safety broadband network (PSBN) that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions. The Act establishes the First Responder Network Authority (FirstNet) as an independent authority within the National Telecommunications and Information Administration (NTIA) and authorizes it to take all actions necessary to ensure the design, construction, and operation of a nationwide public safety broadband network (PSBN), based on a single, national network architecture.

FirstNet is responsible for, at a minimum, ensuring nationwide standards for the use of and access to the network; issuing open, transparent, and competitive requests for proposals (RFPs) to build, operate, and maintain the network; encouraging these RFPs to leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and overseeing contracts with non-federal entities to build, operate, and maintain the network.

The Act also charges NTIA with establishing the State and Local Grant Implementation Program (SLIGP) to assist State, regional, tribal, and local jurisdictions with identifying, planning, and implementing the most efficient and effective means to use and integrate the infrastructure, equipment, and other architecture associated with the nationwide PSBN to satisfy the wireless broadband and data services needs of their jurisdictions.

The Act directed NTIA, in consultation with FirstNet, to establish programmatic requirements for SLIGP by August 22, 2012. NTIA met the Act's directive by issuing a Notice that described the scope of allowable activities that SLIGP will fund, defined eligible costs, and discussed prioritizing grants for activities that ensure coverage in rural as well as urban areas. Because the appointment of the FirstNet Board occurred on August 20, 2012, NTIA had only just started to consult with the Board on the SLIGP requirements at the time it issued the Notice on August 21, 2012. As a result, NTIA did not announce procedures for the submission of grant applications in the August 21 Notice nor did it begin accepting grant applications at that time. Instead, NTIA announced that, subject to the activities of FirstNet, it intended to release a Federal Funding Opportunity (FFO) and open the application window during the first quarter of calendar year 2013.

Moreover, the Act's framework contemplates that FirstNet will closely coordinate its activities with State, regional, tribal, and local governments and imposes a statutory requirement that FirstNet consult with these entities as it takes all actions necessary to build, deploy, and operate the nationwide PSBN. Specifically, the Act requires FirstNet to consult with State, regional, tribal, and local governments about the distribution and expenditure of any amounts required to carry out its responsibilities, including (i) The construction of a core network and any radio access network build-out; (ii) placement of towers; (iii) coverage areas of the network; (iv) adequacy of hardware, security, reliability, and resiliency requirements; (v) assignment of priority to local users and selection of entities seeking network access; and (vi) training needs of local users.

Additionally, the Act specifies that these required consultations are to occur between FirstNet and the single point of contact that the State is required to designate in its application for grant funds under SLIGP. Thus, progress in meeting FirstNet's responsibilities under the Act, including its required consultations, is inextricably linked to the establishment of SLIGP. FirstNet must rely on NTIA to establish SLIGP as the principal means to facilitate its required consultations. At the same time, without funding assistance from SLIGP, the States will lack the resources to consult effectively with FirstNet and provide it with information needed for it to proceed with the design and construction of a nationwide PSBN in an effective and timely manner, as required by the Act.

In order to meet these objectives, DOC/NTIA requested an emergency review by the Office of Management and Budget (OMB). This request was approved on January 7, 2013; approval

ends on July 31, 2013. The publication of this notice allows NTIA to begin the process to extend the approval for the standard three years.

II. Method of Collection

Electronically via grants.gov, and paper format.

III. Data

OMB Control Number: 0660–0038.
Form Number(s): None.
Type of Review: Regular submission (extension of a currently approved information collection).
Affected Public: State, regional, local, and tribal government organizations.
Estimated Number of Respondents: 56.
Estimated Time Per Response: Application, 10 hours; Quarterly report, 4 hours.
Estimated Total Annual Burden Hours: 1,456.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 6, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–03091 Filed 2–11–13; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Board of Actuaries; Notice of Federal Advisory Committee Meeting

AGENCY: DoD.

ACTION: Meeting notice.

SUMMARY: Under the provision of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal Advisory Committee meeting of the DoD Board of Actuaries will take place.

DATES: July 18, 2013, from 1:00 p.m. to 5:00 p.m. and July 19, 2013, from 10:00 a.m. to 1:00 p.m.

ADDRESSES: 4800 Mark Center Drive, Conference Room 4, Level B1, Alexandria, VA 22350.

FOR FURTHER INFORMATION CONTACT: Kathleen Ludwig at the Defense Human Resource Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 06J25–01, Alexandria, VA 22350–4000. Phone: (571) 372–1993, Email: *Kathleen.Ludwig@osd.pentagon.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of the meeting is for the Board to review DoD actuarial methods and assumptions to be used in the valuations of the Education Benefits Fund, the Military Retirement Fund, and the Voluntary Separation Incentive Fund, in accordance with the provisions of Section 183, Section 2006, Chapter 74 (10 U.S.C. 1464 et. seq), and Section 1175 of Title 10.

Agenda:

Education Benefits Fund (July 18, from 1:00 p.m. to 5:00 p.m.)
1. Briefing on Investment Experience
2. September 30, 2012, Valuation Proposed Economic Assumptions*
3. September 30, 2012, Valuation Proposed Methods and Assumptions—Reserve Programs*
4. September 30, 2012, Valuation Proposed Methods and Assumptions—Active Duty Programs*
5. Developments in Education Benefits

Military Retirement Fund (July 19, from 10:00 a.m. to 1:00 p.m.)
1. Briefing on Investment Experience
2. September 30, 2012, Valuation of the Military Retirement Fund*
3. Proposed Methods and Assumptions for September 30, 2013, Valuation of the Military Retirement Fund*
4. Proposed Methods and Assumptions for December 31, 2012, Voluntary Separation Incentive (VSI) Fund Valuation*
5. Recent and Proposed Legislation

* Board approval required

Public's accessibility to the meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first come basis. The Mark Center is an annex of the Pentagon. Those without a valid DoD Common Access Card must contact Kathleen Ludwig at 571–372–1993 no later than June 14, 2013. Failure to make the necessary arrangements will result in building access being denied. It is strongly recommended that attendees plan to arrive at the Mark Center at least 30 minutes prior to the start of the meeting.

Committee's Designated Federal Officer or Point of Contact: Persons desiring to attend the DoD Board of Actuaries meeting or make an oral presentation or submit a written statement for consideration at the meeting must notify Kathleen Ludwig at (571) 372–1993, or *Kathleen.Ludwig@osd.pentagon.mil,* by June 14, 2013.

Dated: February 6, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–03051 Filed 2–11–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Medicare-Eligible Retiree Health Care Board of Actuaries; Notice of Federal Advisory Committee Meeting

AGENCY: DoD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal Advisory Committee meeting of the DoD Medicare-Eligible Retiree Health Care Board of Actuaries will take place.

DATES: Friday, August 2, 2013, from 10:00 a.m. to 11:30 a.m.

ADDRESSES: 4800 Mark Center Drive, Conference Room 18, Level B1, Alexandria, VA 22350.

FOR FURTHER INFORMATION CONTACT: For further information contact Kathleen Ludwig at the Defense Human Resource Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 06J25–01, Alexandria, VA 22350–4000. Phone: (571) 372–1993, Email: *Kathleen.Ludwig@osd.pentagon.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of the meeting is to execute the provisions of Chapter 56, Title 10, United States Code (10 U.S.C. 1114 et. seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of benefits under DoD retiree health care programs for Medicare-eligible beneficiaries.

Agenda

1. Meeting Objective
   a. Review of FY 2014 per capita full-time and part-time normal cost amounts
   b. Approve actuarial assumptions and methods needed for calculating:
   i. FY 2015 per capita full-time and part-time normal cost amounts
   ii. September 30, 2012 unfunded liability (UFL)
   iii. October 1, 2013 Treasury UFL amortization and normal cost payments
2. Trust Fund Update
3. Medicare-Eligible Retiree Health Care Fund Update
4. September 30, 2011 Actuarial Valuation Results
5. September 30, 2012 Actuarial Valuation Proposals
6. Decisions

Actuarial assumptions and methods needed for calculating:

a. FY 2015 per capita full-time and part-time normal cost amounts.

b. September 30, 2012 unfunded liability (UFL).

c. October 1, 2013 Treasury UFL amortization and normal cost payments.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and the availability of space, this meeting is open to the public. Seating is on a first come basis. The Mark Center is an annex of the Pentagon. Those without a valid DoD Common Access Card must contact Kathleen Ludwig at 571–372–1993 no later than June 28, 2013. Failure to make the necessary arrangements will result in building access being denied. It is strongly recommended that attendees plan to arrive at the Mark Center at least 30 minutes prior to the start of the meeting.

Committee's Designated Federal Officer or Point of Contact: Persons desiring to attend the DoD Medicare-Eligible Retiree Health Care Board of Actuaries meeting or make an oral presentation or submit a written statement for consideration at the meeting, must notify Kathleen Ludwig at (571) 372–1993, or *Kathleen.Ludwig@osd.pentagon.mil,* by June 28, 2013.

Dated: February 6, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–03060 Filed 2–11–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

South Dakota Task Force Meeting

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of meeting.

SUMMARY: The duties of the Task Force are to prepare and approve a plan for the use of the funds made available under the Missouri River Restoration Act of 2000 (Title IX) to promote conservation practices in the Missouri River watershed, control and remove sediment from the Missouri River, protect recreation on the Missouri River from sedimentation, and protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion.

DATES: The Task Force will hold a meeting on February 26, 2013 from 9:30 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held in the Highlands Room at the Clubhouse Hotel and Suites located at 808 West Sioux Avenue in Pierre, South Dakota.

FOR FURTHER INFORMATION CONTACT: Gwyn M. Jarrett at (402) 995–2717.

SUPPLEMENTARY INFORMATION: The objectives of the Task Force are to prepare and approve a plan for the use of the funds made available under Title IX, develop and recommend to the Secretary of the Army ways to implement critical restoration projects meeting the goals of the plan, and determine if these projects primarily benefit the Federal Government. Written requests may be sent to Gwyn M. Jarrett, U.S. Army Corps of Engineers, 1616 Capitol Avenue, Omaha, NE 68102–4901.

Dated: February 1, 2013.

Gwyn Jarrett,

Project Manager.

[FR Doc. 2013–02872 Filed 2–11–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Extension of Nominations for Membership on the Ocean Research Advisory Panel

AGENCY: Department of the Navy, DoD.

ACTION: Extension of Notice of request for nominations.

SUMMARY: The Ocean Research Advisory Panel (ORAP) is soliciting nominations for eight new members.

DATES: Nominations should be submitted no later than 5:00pm EST, March 15, 2013.

ADDRESSES: Nominations should be submitted via email to CDR Stephen D. Martin, US Navy, at *stephen.d.martin@navy.mil.*

Contact Information: Office of Naval Research, 875 North Randolph Street Suite 1425, ATTN: ONR Code 322B Room 1075, Arlington, VA 22203, telephone 703–696–4395.

FOR FURTHER INFORMATION CONTACT: Dr. Joan S. Cleveland, Office of Naval Research, 875 North Randolph Street Suite 1425, Arlington, VA 22203–1995, telephone 703–696–4532; or CDR Stephen D. Martin, telephone 703–696–4395.

SUPPLEMENTARY INFORMATION: ORAP is a statutorily mandated federal advisory committee that provides senior advice to the National Ocean Research Leadership Council (NORLC), the governing body of the National Oceanographic Partnership Program (NOPP). Under the National Ocean Policy, the National Ocean Council (NOC) Deputy-level Committee has assumed the responsibilities of the NORLC. ORAP provides independent advice and guidance to the NOC. NOC routinely provides guidance and direction on the areas for which it seeks advice and recommendations from ORAP. ORAP also advises on selection of projects and allocation of funds for NOPP.

Panel Member Duties and Responsibilities: Members of the panel represent the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, ocean industries, state governments, academia and others, including individuals who are eminent in the fields of marine science, marine policy, or related fields, including ocean resource management. Members are appointed annually and may serve a term of four years, and are not normally compensated except for travel expenses and per diem while away from their

homes in performance of services for the panel.

The panel meets for at least one two-day public meeting per year, but possibly meets three times per year, on dates agreeable by the panel members; attendance at meetings is expected. Intercessional activities not involving formal decisions or recommendations may be carried out electronically, and the panel may establish sub-panels composed of less than full membership to carry out panel duties.

Nominations: Any interested person or organization may nominate qualified individuals (including one's self) for membership on the panel. Nominated individuals should have extensive expertise and experience in the field of ocean science and/or ocean resource management. Nominations should be identified by name, occupation, position, address, telephone number, email address, and a brief paragraph describing their qualifications in the context of the ORAP Charter, that can be found on-line at (*http://www.nopp.org/committees/orap/*), and ability to represent a stakeholder group. Nominations should also include a résumé or curriculum vitae.

Process and Deadline for Submitting Nominations: Submit nominations via email to CDR Stephen Martin (*stephen.d.martin@navy.mil*) no later than 5:00pm EST, March 15, 2013. ORAP nomination committees under the direction of the National Ocean Council will evaluate the nominees identified by respondents to this **Federal Register** Notice and down-select to a short-list of available candidates (150% of the available open positions for consideration). These selected candidates will be required to fill-out the ''Confidential Financial Disclosure Report'' OGE form 450. This confidential form will allow Government officials to determine whether there is a statutory conflict between a person's public responsibilities and private interests and activities, or the appearance of a lack of impartiality, as defined by federal regulation. The form and additional guidance may be viewed at: (*http://www.oge.gov/Financial-Disclosure/Confidential-Financial-Disclosure-450/Confidential-Financial-Disclosure/*).

In accordance with section 7903 of title 10, United States Code, the short-list of candidates will then be submitted for approval by the Secretaries of the Navy and Defense who are the appointing officials for their consideration. At this time, eight openings are envisioned on the Panel and the final set of nominees will seek to balance a range of geographic and sector representation and experience. Applicants must be US citizens. Successful nominees must provide detailed information required to evaluate potential conflicts of interest. Typically the time required to achieve the final appointments to the Panel is 10–12 months. Members of the Panel serve as Special Government Employees who volunteer their time but whose travel costs for Panel business is provided by the Government. The ORAP is a Federal Advisory Committee and operates under the principles of open and transparent development of advice to the government.

The selection of new panel members will be based on the nominee's qualifications to provide senior advice to the NOC; the availability of the potential panel member to fully participate in the panel meetings; absence of any conflict of interest or appearance of lack of impartiality, and lack of bias; the candidates' areas of expertise and professional qualifications; and achieving an overall balance of different perspectives, geographic representation, and expertise on the panel.

Dated: February 5, 2013.

C.K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–03165 Filed 2–11–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Supporting Effective Educator Development Grant Program

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

Overview Information: Supporting Effective Educator Development (SEED) Grant Program.

Notice inviting applications for new awards for FY 2013.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.367D.

DATES:

Applications Available: February 12, 2013.

Deadline for Notice of Intent to Apply: March 14, 2013.

Date of Pre-Application Meeting: March 7, 2013.

Further information will be available on the agency's Web site *www2.ed.gov/programs/edseed/index.html.*

Deadline for Transmittal of Applications: April 15, 2013.

Deadline for Intergovernmental Review: June 12, 2013.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The SEED program provides funding for grants to national not-for-profit organizations (as defined in this notice) for projects that support teacher or principal training or professional enhancement activities and are supported by at least moderate evidence of effectiveness (as defined in this notice). The purpose of the program is to increase the number of highly effective teachers and principals (as defined in this notice) by developing or expanding the implementation of practices that are demonstrated to have an impact on improving student achievement or student growth (as defined in this notice). These grants will allow eligible entities to develop, expand, and evaluate practices that can serve as models of best practices that can be sustained and disseminated.

Priorities: These priorities are from the notice of final priorities, requirements, definitions, and selection criteria (NFP) for this program, published elsewhere in this issue of the **Federal Register**.

Absolute Priorities: For the FY 2013 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one or more of these priorities.

These priorities are:

Absolute Priority 1: Teacher or Principal Recruitment, Selection, and Preparation.

This priority funds projects that will create or expand practices and strategies that increase the number of highly effective teachers (as defined in this notice) or highly effective principals (as defined in this notice) by recruiting, selecting, and preparing talented individuals to work in schools with high concentrations of high-need students (as defined in this notice). Projects must include activities that focus on creating or expanding high-performing teacher preparation programs, principal preparation programs, or both. Activities may include but are not limited to expanding clinical experiences, redesigning and implementing program coursework to align with State standards and district requirements for P–12 teachers, providing induction and other support for program participants in their classrooms and schools, and developing

strategies for tracking the effect program graduates have on the achievement of their students or the performance of their schools.

In addition, an applicant must propose a plan demonstrating a rigorous, competitive selection process to determine which aspiring teachers or principals participate in the applicant's proposed activities.

Absolute Priority 2: Professional Development for Teachers to Improve their Writing Instruction.

This priority funds projects designed to improve student literacy and writing skills by creating or expanding practices and strategies that increase the number of highly effective teachers (as defined in this notice) by improving their knowledge, understanding, and teaching of writing in the context of their subject areas. Projects will focus on improving writing instruction to increase student achievement (as defined in this notice) by providing high-quality professional development to teachers in schools with high concentrations of high-need students (as defined in this notice).

Applicants are required to (i) describe the need, in the districts proposed to be served, for teacher professional development to improve student literacy and writing skills and (ii) demonstrate alignment of their proposed projects with State standards.

In addition, applicants must describe how they plan to measure the impact the professional development has on the effectiveness of teachers served by their projects. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Absolute Priority 3: Advanced Certification and Advanced Credentialing.

This priority funds projects that will create or expand practices and strategies based on advanced certification or advanced credentialing that increase the number of highly effective teachers (as defined in this notice), highly effective principals (as defined in this notice), or both, who work in schools with high concentrations of high-need students (as defined in this notice).

Applicants are required to focus their proposed projects on encouraging and supporting teachers, principals, or both, who seek a nationally recognized, standards-based advanced certificate or advanced credential through high-quality professional enhancement projects designed to improve teaching and learning for teachers who may take on career ladder positions (as defined in this notice), principals, or both who would serve as models, mentors, and coaches for other teachers, principals, or both working in schools with high concentrations of high-need students (as defined in this notice).

In addition, the effectiveness of teachers or principals who receive advanced certification or credentialing must be determined through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Finally, an applicant must propose a plan demonstrating a rigorous, competitive selection process to determine which teachers or principals participate in the applicant's proposed activities.

Competitive Preference Priorities: For the FY 2013 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award an additional 5 points to an application that meets Competitive Preference Priority 1. We award an additional 1 point to an application that meets Competitive Preference Priority 2. We award up to an additional 3 points to an application that meets Competitive Preference Priority 3. These points are in addition to any points the application earns under the selection criteria. Addressing these competitive preference priorities is optional, and applicants may choose to respond to none, one, two, or all three of the competitive preference priorities for this competition.

These priorities are:

Competitive Preference Priority 1: Supporting Practices and Strategies for Which There Is Strong Evidence of Effectiveness (0 or 5 points).

This priority funds projects that are supported by strong evidence of effectiveness (as defined in this notice).

Competitive Preference Priority 2: Improving Efficiency (Cost-Effectiveness) (0 or 1 point).

This priority funds projects that will identify strategies for providing cost-effective, high-quality services at the State, regional, or local level by making better use of available resources. Such projects may include innovative and sustainable uses of technology, modification of school schedules and teacher compensation systems, use of open educational resources (as defined in this notice), or other strategies.

Competitive Preference Priority 3: Promoting Science, Technology, Engineering, and Mathematics (STEM) Education (0 to 3 points).

This priority funds projects that address one or both of the following priority areas:

(a) Increasing the opportunities for high-quality preparation of, or professional development for, teachers of STEM subjects.

(b) Increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, who are teachers of STEM subjects and have increased opportunities for high-quality preparation or professional development.

In addition, applicants must describe how they plan to measure the impact the proposed project activities have on teacher effectiveness. Applicants must determine teacher effectiveness through a rigorous, transparent, and fair evaluation in which performance is differentiated using multiple measures of effectiveness and based in significant part on student growth (as defined in this notice).

Definitions

Career ladder positions means school-based instructional leadership positions designed to improve instructional practice, which teachers may voluntarily accept, such as positions described as master teacher, mentor teacher, demonstration or model teacher, or instructional coach, and for which teachers are selected based on criteria that are predictive of the ability to lead other teachers.

High-need students means students at risk of educational failure, such as students who are living in poverty, who are English learners, who are far below grade level or who are not on track to becoming college- or career-ready by graduation, who have left school or college before receiving, respectively, a regular high school diploma or a college degree or certificate, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who are pregnant or parenting teenagers, who have been incarcerated, who are new immigrants, who are migrant, or who have disabilities.

Highly effective principal means a principal whose students, overall and for each subgroup as described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act, as amended (ESEA) (i.e., economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency), achieve high rates (e.g.,

one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that principal effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, support for ensuring effective instruction across subject areas for a well-rounded education, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

Highly effective teacher means a teacher whose students achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that teacher effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional development learning communities) that increase effectiveness of other teachers in the school or local educational agency (LEA).

Large sample means a sample of 350 or more students (or other single analysis units) who were randomly assigned to a treatment or control group, or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units) and that were randomly assigned to a treatment or control group.

Moderate evidence of effectiveness means one of the following conditions is met:

(1) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse (WWC) Evidence Standards without reservations; [1] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(2) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the WWC Evidence Standards with reservations; [2] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). (Note: multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.)

Multi-site sample means more than one site, where site can be defined as an LEA, locality, or State.

National level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

National not-for-profit organization means an entity that meets the definition of ''nonprofit'' under 34 CFR 77.1(c) and is of national scope, meaning that the entity provides services in multiple States to a significant number or percentage of recipients and is supported by staff or affiliates in multiple States.

Open educational resources means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use or repurposing by others.

Relevant outcome means the student outcome or outcomes (or the ultimate outcome if not related to students) that the proposed project is designed to improve, consistent with the specific goals of a program.

Strong evidence of effectiveness means that one of the following conditions is met:

(1) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the WWC Evidence Standards without reservations; [3] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). (Note: Multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.)

(2) There are at least two studies of the effectiveness of the process, product, strategy, or practice being proposed, each of which meets the WWC Evidence Standards with reservations; [4] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant unfavorable impacts on that outcome for relevant populations in the studies or in other studies of the intervention reviewed by and reported on by the WWC); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice).

Student achievement means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

[1] *See* WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[2] *See* WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[3] *See* WWC Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[4] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. An applicant may also include other measures that are rigorous and comparable across classrooms.

Program Authority: Department of Education Appropriations Act, 2012 (Pub. L. 112–74, Title III, Division F).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The notice of final priorities, requirements, definitions, and selection criteria, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $25,349,859.

Estimated Range of Awards: $5,000,000-$15,000,000 per award.

Estimated Average Size of Awards: $8,300,000.

Estimated Number of Awards: 1–5 awards.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* As established in the NFP published elsewhere in this issue of the **Federal Register**, to be eligible for a SEED program grant, an entity must be a national not-for-profit organization (as defined in this notice). Each applicant must provide in its application documentation that it is a national not-for-profit organization (as defined in this notice).

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Evidence Standards:* As established in the NFP published elsewhere in this issue of the **Federal Register**, to be eligible for funding, an applicant must demonstrate that its proposed project is supported by at least moderate evidence of effectiveness (as defined in this notice).

Each applicant must provide in its application documentation that its proposed project is supported by at least moderate evidence of effectiveness. An applicant that responds to the Supporting Practices and Strategies for Which There Is Strong Evidence of Effectiveness priority also must provide documentation that its proposed project is supported by strong evidence of effectiveness (as defined in this notice). An applicant must ensure that all evidence is available to the Department from publically available sources and provide links or references to, or copies of, the evidence in the application. If the Department determines that an applicant has provided insufficient evidence that its proposed project meets the definition of ''moderate evidence of effectiveness'' or ''strong evidence of effectiveness,'' the applicant will not have an opportunity to provide additional evidence to support its application.

4. *Evaluations:* As established in the NFP published elsewhere in this issue of the **Federal Register**, an applicant receiving funds under this program must comply with the requirements of any evaluation of the program conducted by the Department. In addition, an applicant receiving funds under this program must make broadly available through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, in print or electronically, the results of any evaluations it conducts of its funded activities.

IV. Application and Submission Information

1. *Address to Request Application Package:* Richard Wilson, U.S. Department of Education, 400 Maryland Avenue SW., room 4C125, Washington, DC 20202–5960 or by email: *SEED@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent to Apply: March 14, 2013. The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Department strongly encourages each potential applicant to notify the Department by sending a short email message indicating the applicant's intent to submit an application for funding. The email need not include information regarding the content of the proposed application, only the applicant's intent to submit it. The Department requests that this email notification be sent to the SEED program inbox at: *seed@ed.gov.*

Eligible entities that fail to provide this email notification may still apply for funding.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We suggest you limit the application narrative to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except for titles, headings, footnotes, quotations, references, captions, charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, or letters of support.

b. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the SEED program, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: February 12, 2013.

Deadline for Notice of Intent to Apply: March 14, 2013.

Date of Pre-Application Meeting: March 7, 2013. Further information will be available on the agency's Web site *www2.ed.gov/programs/edseed/index.html.*

Deadline for Transmittal of Applications: April 15, 2013.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 12, 2013.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, Central Contractor Registry, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR or SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Supporting Effective Educator Development Grant Program, CFDA number 84.367D, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Supporting Effective Educator Development Grant Program at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.367, not 84.367D).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (a Department-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Richard Wilson, U.S. Department of Education, 400 Maryland Avenue SW., Room 4C125, Washington, DC 20202–5960. FAX: (202) 401–8466.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.367D), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.367D), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from the NFP for this program, published elsewhere in this issue of the **Federal Register**, and are as follows:

The maximum score for all the selection criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that reviewers will consider in determining the extent to which an applicant meets the criterion.

In addressing each criterion, applicants are encouraged to make explicit connections to relevant aspects of responses to other selection criteria.

A. *Significance* (20 points). The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers:

(1) The significance of the proposed project on a national level (as defined in this notice).

(2) The potential contribution of the proposed project to the development and advancement of teacher and school leadership theory, knowledge, and practices.

(3) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

B. *Quality of the Project Design and Services* (25 points). The Secretary considers the quality of the design and services of the proposed project. In determining the quality of the design and services of the proposed project, the Secretary considers:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, aligned, and measurable.

(2) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(3) The extent to which the training or professional development services to be provided by the proposed project will be of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

C. *Quality of the Management Plan and Personnel* (15 points). The Secretary considers the quality of the management plan for the proposed project and of the personnel who will carry out the proposed project. In determining the quality of the management plan and the project personnel, the Secretary considers:

(1) The qualifications, including relevant training and experience, of the project director, key project personnel, and project consultants or subcontractors.

(2) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(3) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(4) The extent to which the proposed management plan includes sufficient and reasonable resources to effectively carry out the proposed project, including the project evaluation.

D. *Sustainability* (20 points). The Secretary considers the adequacy of resources to continue the proposed project after the grant period ends. In determining the adequacy of resources and the potential for utility of the proposed project's activities and products by other organizations, the Secretary considers:

(1) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(2) The extent to which the proposed project is likely to yield findings and products (such as information, materials, processes, or techniques) that may be used by other agencies and organizations.

(3) The extent to which the applicant will disseminate information about results and outcomes of the proposed project in ways that will enable others, including the public, to use the information or strategies.

(e) *Quality of the Project Evaluation* (20 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the evaluation includes the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data.

(3) The extent to which the evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(4) The extent to which the proposed project plan includes sufficient resources to carry out the project evaluation effectively.

Note: We encourage applicants to review the following technical assistance resources on evaluation: (1) WWC Procedures and Standards Handbook: *http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1;* and (2) IES/NCEE Technical Methods papers: *http://ies.ed.gov/ncee/tech_methods/.*

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification

(GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The overall purpose of the SEED program is to support projects by national not-for-profit organizations (as defined in this notice) that are supported by at least moderate evidence of effectiveness (as defined in this notice) to recruit, select, and prepare or provide professional enhancement activities for teachers, principals, or both. We have established the following performance measures for the SEED program: For absolute priorities 1 and 2, the percentage of teacher and principal participants who serve concentrations of high-need students (as defined in this notice), are highly effective (as defined in this notice), and serve for at least two years, and the cost per such participant. For absolute priority 3, the percentage of teacher and principal participants who receive advanced certification or advanced credentialing and are highly effective, and the cost per such participant. Grantees will report annually on each component of these measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Richard Wilson, U.S. Department of Education, 400 Maryland Avenue SW., room 4C125, Washington, DC 20202–5960. Telephone: (202) 453–6709, or by email: *SEED@ed.gov.*

If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under *For Further Information Contact* in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 7, 2013.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2013–03125 Filed 2–11–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation

AGENCY: Office of Postsecondary Education, U.S. Department of Education, National Committee on Foreign Medical Education and Accreditation.

ACTION: The purpose of this notice is to announce the upcoming meeting of the National Committee on Foreign Medical Education and Accreditation (NCFMEA). Parts of this meeting will be open to the public, and the public is invited to attend those portions.

Meeting Date and Place: The public meeting will be held on Monday, April 15, 2013, and Tuesday, April 16 2013, from 8:00 a.m. until approximately 5:30 p.m., at the U.S. Department of Education, Eighth Floor Conference Center, Office of Postsecondary Education, 1990 K Street NW., Washington, DC 20006.

Function: The NCFMEA was established by the Secretary of Education under Section 102 of the Higher Education Act of 1965, as amended. The NCFMEA's responsibilities are to:

- Upon request of a foreign country, evaluate the standards of accreditation applied to medical schools in that country; and,
- Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

Comparability of the applicable accreditation standards is an eligibility requirement for foreign medical schools to participate in the William D. Ford Federal Direct Student Loan Program, 20 U.S.C. 1087a et seq.

Meeting Agenda: The NCFMEA will review the standards of accreditation applied to medical schools by several foreign countries to determine whether those standards are comparable to the standards of accreditation applied to medical schools in the United States and/or reports previously requested of countries by the NCFMEA. Discussion of the standards of accreditation will be held in sessions open to the public. Discussions resulting in specific determinations of comparability are closed to the public in order that each

country may be properly notified by the Department of the Committee's decision.

Because the October 30, 2012 NCFMEA meeting was cancelled due to the forecast of severe and disruptive weather (Hurricane Sandy), the countries which were scheduled to be discussed at that meeting will now be reviewed at the April 15–16, 2013 meeting. They are Australia/New Zealand, Dominican Republic, Ireland, Israel, Mexico, Pakistan, Saba, Slovak Republic, Taiwan, and the United Kingdom. The meeting agenda, as well as the staff analyses pertaining to the meeting will be posted on the Department of Education's web site prior to the meeting at *http://www2.ed.gov/about/bdscomm/list/ncfmea.html.*

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice by April 5, 2013, although we will attempt to meet a request received after that date.

FOR FURTHER INFORMATION CONTACT: Carol Griffiths, Executive Director for the NCFMEA, U.S. Department of Education, 1990 K Street, NW., Room 8073, Washington, DC 20006–8129, telephone: 202 219–7035; fax: 202 502–7874, or email: *Carol.Griffiths@ed.gov.*

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

David A. Bergeron,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2013–03167 Filed 2–11–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Notice of Open and Closed Meeting Sessions.

SUMMARY: This notice sets forth the schedule and proposed agenda for the upcoming meeting of the National Assessment Governing Board (Board) and also describes the specific functions of the Board. Notice of this meeting is required under Section 10 (a) (2) of the Federal Advisory Committee Act. This notice is issued to provide members of the general public with an opportunity to attend and/or provide comments. Individuals who will need special accommodations in order to attend the meeting (e.g. interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202–357–6938 or at *Munira.Mwalimu@ed.gov* no later than February 19, 2013. We will attempt to meet requests after this date but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: February 28–March 2, 2013.

Times:

February 28: Committee Meetings:

Assessment Development Committee: 8:30 a.m.–1:45 p.m.

Ad Hoc Committee on NAEP Background Information: 2:00 p.m.–4:00 p.m.

Executive Committee: Open Session: 4:30 p.m.–5:30 p.m.; Closed Session: 5:30 p.m.–6:00 p.m.

March 1: Full Board and Committee Meetings:

Full Board: Open Session: 8:30 a.m.–9:45 a.m.; Closed Session: 12:30 p.m.–1:30 p.m.;

Open Session: 1:45 p.m.–4:45 p.m.

Committee Meetings:

Assessment Development Committee (ADC): Open Session: 10:00 a.m.–12:15 p.m.;

Reporting and Dissemination Committee (R&D): Open Session: 10:00 a.m.–12:15 p.m.

Committee on Standards, Design and Methodology (COSDAM): Open Session: 10:00 a.m.–12:15 p.m.

March 2: Full Board and Committee Meetings:

Nominations Committee: Closed Session: 7:30 a.m.–8:15 a.m.

Full Board: Closed Session: 8:30 a.m.–9:15 a.m.; Open Session: 9:30 a.m.–12:00 p.m.

Location: The Ritz-Carlton Tysons Corner, 1700 Tysons Boulevard, McLean, VA 22102

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Executive Officer, National Assessment Governing Board, 800 North Capitol Street NW., Suite 825, Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board (Board) is established under section 412 of the National Education Statistics Act of 1994, as amended.

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress (NAEP). The Board's responsibilities include the following: Selecting subject areas to be assessed, developing assessment frameworks and specifications, developing appropriate student achievement levels for each grade and subject tested, developing standards and procedures for interstate and national comparisons, developing guidelines for reporting and disseminating results, and releasing initial NAEP results to the public.

On February 28, 2013, the Assessment Development Committee (ADC) will meet in closed session from 8:30 a.m. to 1:45 p.m. to review secure NAEP test materials for Science Interactive Computer Tasks (ICTs) at grades 4, 8, and 12 for the 2014 pilot test, in preparation for the 2015 NAEP Science assessment. The review of secure ICTs for grades 4, 8, and 12 must be conducted in closed session because the ADC members will be provided with secure items and materials which are not yet available for release to the general public. Premature disclosure of the secure test items and materials would compromise the integrity and substantially impede implementation of the secure NAEP assessments and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 of the United States Code.

On February 28, 2013, the Ad Hoc Committee on NAEP Background Information will meet in open session from 2:00 p.m. to 4:00 p.m. Thereafter, the Executive Committee will convene in open session from 4:30 p.m. to 5:30 p.m. and in closed session from 5:30 p.m. to 6:00 p.m. During the closed session, the Executive Committee will receive and discuss current procurement plans and independent government cost estimates from the National Center for Education Statistics (NCES) staff for proposed item development, data collection, scoring and analysis, and reporting of National Assessment of Educational Progress

(NAEP) results for 2013–2017, and their implications on future NAEP activities. The discussion of independent government cost estimates for the NAEP 2013–2017 contracts is necessary for ensuring that NAEP contracts meet congressionally mandated goals and adhere to Board policies on NAEP assessments available at *www.nagb.org/policies.html.* This part of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program by providing contractors attending an unfair advantage in procurement and contract negotiations for NAEP. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

On March 1, 2013, the full Board will meet in open session from 8:30 a.m. to 9:45 a.m., followed by a closed session from 12:30 p.m. to 1:30 p.m., and an open session from 1:45 p.m. to 4:45 p.m.

From 8:30 a.m. to 9:45 a.m. on March 1, 2013 the Board will review and approve the February 28–March 2, 2013 Board meeting agenda and meeting minutes from the December 2012 Quarterly Board meeting. Thereafter, the Superintendent from Fairfax County Public Schools will provide welcome remarks. This session will be followed by a report from the Executive Director of the Governing Board, and updates from the Commissioner of the National Center for Education Statistics (NCES) and the Director of the Institute of Education Sciences (IES). Following these sessions, the Board will recess for Committee meetings.

On March 1, 2013, the Reporting and Dissemination Committee, the Assessment Development Committee and the Committee on Standards, Design and Methodology will meet in open sessions from 10:00 a.m. to 12:15 p.m. Following the Committee meetings, from 12:30 p.m. to 1:30 p.m. the full Board will meet in closed session to receive a briefing on the NAEP 2012 Economics Report. The Board will receive an embargoed briefing on preliminary results which will include secure test items, embargoed assessment data, and results that cannot be discussed in an open meeting prior to their official release. Premature disclosure of these results would significantly impede implementation of the NAEP assessment program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 United States Code.

After the closed session briefing, the Board will meet in open session from 1:45 p.m. to 2:45 p.m. to receive a panel briefing on the NCES workshop on the Future of NAEP. From 3:00 p.m. to 4:00 p.m. the Board will discuss two policy issues under consideration by the Executive Committee: the NAEP Schedule of Assessments and reviewing and updating the Governing Board's Policy on NAEP Redesign. From 4:00 p.m. to 4:30 p.m., the Board will receive a demonstration of the new web-based format of the NAEP Mega-States Report. The March 1, 2013 Board meeting is scheduled to adjourn at 4:30 p.m.

On March 2, 2013, the Nominations Committee will meet in closed session from 7:30 a.m. to 8:15 a.m. to discuss potential candidates for Board terms beginning October 1, 2013. The Nomination Committee's recommendations will be presented for full Board action from 8:30 a.m. to 8:50 a.m. The Committee's discussions and Board review and action pertain solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of section 552b(c) of Title 5 of the United States Code.

On March 2, 2013, from 8:50 a.m. to 9:15 a.m. the full Board will receive an update in closed session on the NAEP/TIMSS Linking Report. During this closed session, Board members will be provided with data which are not yet available for release to the general public. Premature disclosure of the secure data would compromise the integrity and substantially impede implementation of the NAEP/TIMSS Linking Study and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 of the United States Code.

Following this closed session, from 9:30 a.m. to 10:30 a.m., the full Board will meet in open session to receive a briefing on the *Inside NAEP* series on how NAEP scores are calculated. From 10:30 a.m. to 12:00 p.m. the Board will receive Committee reports and take action on Committee recommendations. The March 2, 2013 meeting is scheduled to adjourn at 12:00 p.m.

A verbatim transcript of the meeting, including summaries of the activities of the closed sessions and related matters that are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street NW., Washington, DC, from 9:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–866–512–1800; or in the Washington, DC, area at (202) 512–0000. Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: February 6, 2013.

Cornelia S. Orr,

Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2013–03143 Filed 2–11–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Human Reliability Program (HRP), OMB Control Number 1910–5122. This information collection consists of forms that will certify to DOE that respondents were advised of the requirements for occupying or continuing to occupy an HRP position. The forms include: Human Reliability Program Certification (DOE F 470.3), Acknowledgement and Agreement to Participate in the Human Reliability Program (DOE F 470.4), Authorization and Consent to Release Human Reliability Program (HRP) Records in Connection with HRP (DOE F 470.5), Refusal of Consent (DOE F 470.6), and Human Reliability Program (HRP) Alcohol Testing Form (DOE F 470.7).

The HRP is a security and safety reliability program for individuals who apply for or occupy certain positions that are critical to the national security. It requires an initial and annual supervisory review, medical assessment, management evaluation, and a DOE personnel security review of all applicants or incumbents. It is also used to ensure that employees assigned to nuclear explosive duties do not have emotional, mental, or physical conditions that could result in an accidental or unauthorized detonation of nuclear explosives.

DATES: Comments regarding this collection must be received on or before March 14, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718 or contacted by email at *chad_s_whiteman@omb.eop.gov.*

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503; and to Regina Cano, U.S. Department of Energy, Office of Health, Safety and Security (HS–50), 1000 Independence Ave SW., Washington, DC 20585, telephone (301) 903–3473, by fax at (301) 903–6961, or by email at *regina.cano@hq.doe.gov.* Information about the collection instrument may be obtained at: *http://www.hss.doe.gov/pra.html.*

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Regina Cano, U.S. Department of Energy, Office of Health, Safety and Security (HS–50), 1000 Independence Ave SW., Washington, DC 20585, telephone (301) 903–3473, by fax at (301) 903–6961, or by email at *regina.cano@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1910–5122; (2) *Information Collection Request Title:* Human Reliability Program; (3) *Type of Review:* renewal; (4) *Purpose:* This collection provides for DOE management to ensure that individuals who occupy HRP positions meet program standards of reliability and physical and mental suitability; (5) *Annual Estimated Number of Respondents:* 43,960 (6) *Annual Estimated Number of Total Responses:* 43,999 (7) *Annual Estimated Number of Burden Hours:* 3,873; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $349,002; and (9) *Response Obligation:* Mandatory.

Statutory Authority: 42 U.S.C. 2165; 42 U.S.C. 2201; 42 U.S.C. 5814–5815; 42 U.S.C. 7101 et seq.; 50 U.S.C. 2401 et seq. ; E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended; 3 CFR Chap. IV.

Issued in Washington, DC on February 5, 2013.

Stephen A. Kirchhoff,

Director, Office of Resource Management, Office of Health, Safety and Security.

[FR Doc. 2013–03160 Filed 2–11–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DOE Response to Recommendation 2012–2 of the Defense Nuclear Facilities Safety Board, Hanford Tank Farms Flammable Gas Safety Strategy; Correction

AGENCY: Department of Energy.

ACTION: Notice; Correction

SUMMARY: The Department of Energy (DOE) published a document in the **Federal Register** of January 22, 2013, announcing the DOE's Response to Recommendation 2012–2 of the Defense Nuclear Facilities Safety Board, Hanford Tank Farms Flammable Gas Safety Strategy. This document corrects an error in that notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Steven Petras at *steven.petras@hq.doe.gov.*

Correction

In the **Federal Register** of January 22, 2013, in FR Doc. 2013–01132, 78 FR 4404, please make the following correction:

On page 4404, first column, add a **DATES** section before **ADDRESSES** to read as follows:

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before February 21, 2013.

Mari-Josette Campagnone,

Departmental Representative to the Defense Nuclear Facilities Safety Board, Office of Health, Safety and Security.

[FR Doc. 2013–03161 Filed 2–11–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2037–002.
Applicants: Spearville 3, LLC.
Description: Notice of Non-Material Change in Status of Spearville 3, LLC.
Filed Date: 1/30/13.
Accession Number: 20130130–5301.
Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: ER12–2617–002.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: SA 2431 G549 Amended Filing to be effective 9/13/2012.
Filed Date: 1/31/13.
Accession Number: 20130131–5003.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER13–347–001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance Filing per 1/8/2013 Order in Docket No. ER13–347–000 to be effective 4/1/2013.
Filed Date: 1/30/13.
Accession Number: 20130130–5270.
Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: ER13–733–001.
Applicants: Silver Bear Power, LLC.
Description: Amendment of Pending Filing 1 to be effective 3/1/2013.
Filed Date: 1/30/13.
Accession Number: 20130130–5271.
Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: ER13–832–000.
Applicants: Puget Sound Energy, Inc.
Description: OATT Housekeeping Cleanup to be effective 1/31/2013.
Filed Date: 1/30/13.
Accession Number: 20130130–5254.
Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: ER13–833–000.
Applicants: PacifiCorp.
Description: BPA Cooperative Communications Agreement 5th Revised to be effective 4/1/2013.
Filed Date: 1/30/13.
Accession Number: 20130130–5272.
Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: ER13–834–000.
Applicants: Southwest Power Pool, Inc.
Description: Registration Freeze Filing to be effective 2/1/2013.
Filed Date: 1/30/13.
Accession Number: 20130130–5273.
Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: ER13–835–000.
Applicants: Southern California Edison Company.
Description: GIA and Distribution Service Agreement SPVP048, RDC 10 Project to be effective 2/1/2013.

Filed Date: 1/31/13.
Accession Number: 20130131–5000.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER13–836–000.
Applicants: MATL LLP.
Description: Modify Attachment K to be effective 12/31/9998.
Filed Date: 1/31/13.
Accession Number: 20130131–5001.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER13–837–000.
Applicants: Southern California Edison Company.
Description: Amended Pacific Intertie DC Transmission Facilities Agmt with SCE and LADWP to be effective 4/2/2013.
Filed Date: 1/31/13.
Accession Number: 20130131–5002.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER13–838–000.
Applicants: Pacific Gas and Electric Company.
Description: CCSF IA—40th Quarterly Filing of Facilities Agreements to be effective 12/31/2012.
Filed Date: 1/31/13.
Accession Number: 20130131–5004.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER13–839–000.
Applicants: ISO New England Inc., Green Mountain Power Corporation.
Description: ISO New England Inc. and Green Mountain Power Corporation submit a Notice of Cancellation of Large Generator Interconnection Agreement.
Filed Date: 1/30/13.
Accession Number: 20130130–5302.
Comments Due: 5 p.m. ET 2/20/13.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA12–4–000.
Applicants: Bluegrass Generation Company, L.L.C., Blythe Energy, LLC, Calhoun Power Company, LLC, Cherokee County Cogeneration Partners, LLC, DeSoto County Generating Company, LLC, Doswell Limited Partnership, Las Vegas Power Company, LLC, LS Power Marketing, LLC, LSP Safe Harbor Holdings, LLC, LSP University Park, LLC, Renaissance Power, L.L.C., Riverside Generating Company, L.L.C., Rocky Road Power, LLC, Tilton Energy LLC, University Park Energy, LLC, and Wallingford Energy LLC.
Description: Quarterly Land Acquisition Report of LS MBR Sellers.
Filed Date: 1/30/13.
Accession Number: 20130130–5291.
Comments Due: 5 p.m. ET 2/20/13.

Docket Numbers: LA12–4–000.
Applicants: Flat Rock Windpower LLC, Flat Rock Windpower II LLC, Marble River, LLC.
Description: Quarterly Land Acquisition Report of Flat Rock Windpower LLC, et al.
Filed Date: 1/30/13.
Accession Number: 20130130–5294.
Comments Due: 5 p.m. ET 2/20/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 31, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03159 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2179–016; ER10–2181–016; ER10–2182–016.
Applicants: R.E. Ginna Nuclear Power Plant, LLC, Nine Mile Point Nuclear Station, LLC, Calvert Cliffs Nuclear Power Plant, LLC.
Description: Notice of Non-Material Change in Status of the CENG Nuclear Entities.
Filed Date: 1/31/13.
Accession Number: 20130131–5411.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER10–2984–009.
Applicants: Merrill Lynch Commodities, Inc.
Description: Merrill Lynch Commodities, Inc. submits Notice of Non-Material Change in Status.
Filed Date: 1/31/13.
Accession Number: 20130131–5395.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER12–2178–004; ER10–2172–015; ER12–2311–004; ER11–2016–010; ER10–2184–015; ER10–2183–012; ER10–1048–012 ER10–2176–016; ER10–2192–015; ER11–2056–009; ER10–2178–015; ER10–2174–015; ER11–2014–012; ER11–2013–012 ER10–3308–014; ER10–1020–011; ER10–1145–011; ER10–1144–010; ER10–1078–011; ER10–1080–011; ER11–2010–012 ER10–1081–011; ER10–2180–015; ER11–2011–011; ER12–2201–004; ER12–2528–003; ER11–2009–011; ER11–3989–009 ER10–1143–011; ER11–2780–009; ER12–1829–004; ER11–2007–010; ER12–1223–009; ER11–2005–012.
Applicants: AV Solar Ranch 1, LLC, Baltimore Gas and Electric Company, Beebe Renewable Energy, LLC, Cassia Gulch Wind Park, LLC, CER Generation II, LLC, CER Generation, LLC, Commonwealth Edison Company, Constellation Energy Commodities Group, Inc., Constellation Energy Commodities Group Maine, LLC, Constellation Mystic Power, LLC, Constellation NewEnergy, Inc., Constellation Power Source Generation, Inc., Cow Branch Wind Power, L.L.C., CR Clearing, LLC, Criterion Power Partners, LLC, Exelon Framingham, LLC, Exelon Generation Company, LLC, Exelon New Boston, LLC, Exelon West Medway, LLC, Exelon Wind 4, LLC, Exelon Wyman, LLC, Handsome Lake Energy, LLC, Harvest Windfarm, LLC, Harvest II Windfarm LLC, High Mesa Energy, LLC, Michigan Wind 1, LLC, Michigan Wind 2, LLC, PECO Energy Company, Safe Harbor Water Power Corporation, Shooting Star Wind Project, LLC, Tuana Springs Energy, LLC, Wildcat Wind, LLC, Wind Capital Holdings, LLC.
Description: Notice of Non-Material Change in Status of AV Solar Ranch 1, LLC, et al.
Filed Date: 1/31/13.
Accession Number: 20130131–5414.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ER13–859–000.
Applicants: ALLETE, Inc.
Description: ALLETE, Inc. submits a Notice of Termination of a Stated Rate, Full Requirements Agreement with the City of Nashwauk, Minnesota.
Filed Date: 1/31/13.
Accession Number: 20130131–5404.
Comments Due: 5 p.m. ET 2/21/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–25–001.
Applicants: Entergy Arkansas, Inc.
Description: Entergy Arkansas, Inc. submits Application for Extension of Authorization to Consent to Borrowings in Connection with Nuclear Fuel Lease and Request for Waiver of Competitive Bidding Requirements.

Filed Date: 1/31/13.
Accession Number: 20130131–5408.
Comments Due: 5 p.m. ET 2/21/13.

Docket Numbers: ES11–27–001; ES11–26–001; ES11–28–001; ES11–29–001 ES11–30–003.
Applicants: Entergy Gulf States Louisiana, L.L.C.
Description: Joint Application of Entergy Gulf States Louisiana, L.L.C. for Extension of Authorizations under Federal Power Act Section 204.
Filed Date: 1/31/13.
Accession Number: 20130131–5412.
Comments Due: 5 p.m. ET 2/21/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03155 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1836–003; ER12–2227–001; ER10–1952–001; ER10–1971–007; ER10–2005–003; ER11–26–003; ER10–1838–002; ER10–1839–003; ER10–2551–002; ER10–1915–002; ER12–569–003; ER10–1841–003; ER13–712–002; ER10–1843–003; ER10–1845–003; ER10–1844–003; ER10–1846–002; ER10–1847–002; ER10–1849–002; ER11–2037–002; ER10–1851–001; ER10–1852–003; ER10–1855–002; ER10–1856–002; ER10–1857–002; ER10–1887–002; ER10–1890–002; ER10–1897–003; ER10–1899–002; ER10–1900–002; ER10–1902–002; ER11–2192–003; ER10–1989–002; ER10–1990–002 ER10–1991–003; ER12–1660–003; ER11–4678–003; ER10–1992–002; ER10–1993–002; ER10–1994–002; ER10–2078–004 ER10–1995–002; ER12–631–003; ER10–1903–002; ER11–2160–002; ER10–1905–003; ER10–1906–002; ER10–1907–003 ER10–1918–003; ER10–1920–004; ER10–1925–003; ER10–1927–003; ER10–1928–004; ER11–2642–003; ER12–676–002 ER10–1986–002; ER10–1985–002; ER11–2365–003; ER10–1984–003; ER10–1983–003; ER10–1976–002; ER12–2444–001 ER10–1975–009; ER10–1974–009; ER12–1228–002; ER10–1963–002; ER10–1964–003; ER10–1965–003; ER12–2226–001 ER12–2225–001; ER10–1966–002; ER10–1967–002; ER10–1968–002; ER10–2720–004; ER10–1930–001; ER10–1931–001 ER10–1932–002; ER10–1935–002; ER10–1948–001; ER10–1950–003; ER11–3635–002; ER10–2006–004; ER10–1961–002 ER10–1962–002; ER11–4428–004; ER12–1880–003; ER12–895–002; ER11–4462–004; ER10–1970–003; ER11–4677–003 ER10–1972–003; ER10–1973–002; ER10–1951–003

Applicants: Ashtabula Wind, LLC, Ashtabula Wind, LLC, Ashtabula Wind II, LLC, Ashtabula Wind III, LLC, Backbone Mountain Windpower, LLC, Badger Windpower, LLC, Baldwin Wind, LLC, Bayswater Peaking Facility, LLC, Blackwell Wind, LLC, Butler Ridge Wind Energy Center, LLC, Cimarron Wind Energy, LLC, Crystal Lake Wind, LLC, Crystal Lake Wind II, LLC, Crystal Lake Wind III, LLC, Day County Wind, LLC, Diablo Winds, LLC, Elk City Wind, LLC, Elk City II Wind, LLC, ESI Vansycle Partners, L.P., Florida Power & Light Company, FPL Energy Burleigh County Wind, LLC, FPL Energy Cabazon Wind, LLC, FPL Energy Cape, LLC, FPL Energy Cowboy Wind, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Hancock County Wind, LLC, FPL Energy Illinois Wind, LLC, FPL Energy Maine Hydro, LLC, FPL Energy Marcus Hook, L.P., FPL Energy MH50 L.P., FPL Energy Montezuma Wind, LLC, FPL Energy Mower County, LLC, FPL Energy New Mexico Wind, LLC, FPL Energy North Dakota Wind, LLC, FPL Energy North Dakota Wind II, LLC, FPL Energy Oklahoma Wind, LLC, FPL Energy Oliver Wind I, LLC, FPL Energy Oliver Wind II, LLC, FPL Energy Sooner Wind, LLC, FPL Energy South Dakota Wind, LLC, FPL Energy Stateline II, Inc., FPL Energy Vansycle, L.L.C., FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyoming, LLC, Garden Wind, LLC, Hatch Solar Energy Center I, LLC Hawkeye Power Partners, LLC, High Majestic Wind Energy Center, LLC, High Winds, LLC, High Majestic Wind II, LLC Jamaica Bay Peaking Facility, LLC, Lake Benton Power Partners II, LLC, Langdon Wind, LLC, Limon Wind, LLC Limon Wind II, LLC, Logan Wind Energy LLC, Meyersdale Windpower LLC, Mill Run Windpower, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco Wind Interconnection Services, LLC, NEPM II, NextEra Energy Duane Arnold, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Point Beach, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, North Jersey Energy Associates, A Limited Partnership, North Sky River Energy, LLC, Northern Colorado Wind Energy, LLC, Osceola Windpower, LLC Osceola Windpower II, LLC, Paradise Solar Urban Renewal, L.L.C., Peetz Table Wind Energy, LLC, Pennsylvania Windfarms, Inc., Perrin Ranch Wind, LLC, Red Mesa Wind, LLC, Sky River LLC, Somerset Windpower, LLC, Story Wind, LLC, Tuscola Bay Wind, LLC, Vasco Winds, LLC, Victory Garden Phase IV, LLC, Waymart Wind Farm, L.P. Wessington Wind Energy Center, LLC, White Oak Energy LLC, Wilton Wind II, LLC, Windpower Partners 1993, LLC
Description: Amendment to December 17, 2012 NextEra Resources Entities' Notification of Non-material Change in Status and Subsidiary Name Change.
Filed Date: 02/04/2013.
Accession Number: 20130204–5165.
Comments Due: 5 p.m. ET 2/25/13.

Docket Numbers: ER10–2194–002.
Applicants: Luminant Energy Company LLC.
Description: Luminant Energy Company LLC hereby files an updated version of Attachment A–2, which Luminant originally submitted with its Petition for Determination of Status as a Category 1 Seller Pursuant to Order #697.
Filed Date: 1/22/13.
Accession Number: 20130122–5385.
Comments Due: 5 p.m. ET 2/12/13.

Docket Numbers: ER12–682–000.
Applicants: Erie Wind, LLC.
Description: Refund Report to be effective N/A.
Filed Date: 11/13/12.
Accession Number: 20121113–5193.
Comments Due: 5 p.m. ET 2/26/13.

Docket Numbers: ER13–474–001.
Applicants: Fitchburg Gas and Electric Light Company, ISO New England Inc.
Description: Fitchburg Gas and Electric Compliance Filing to be effective 11/30/2012.
Filed Date: 2/5/13.
Accession Number: 20130205–5011.

Comments Due: 5 p.m. ET 2/26/13.

Docket Numbers: ER13–752–001.

Applicants: Energy Storage Holdings, LLC.

Description: Amendment to Energy Storage Holdings, LLC MBR Application to be effective 1/12/2013.

Filed Date: 2/4/13.

Accession Number: 20130204–5135.

Comments Due: 5 p.m. ET 2/25/13.

Docket Numbers: ER13–871–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.17(b): 2013–02–05 SA 2506 ITC-Pheasant Run to be effective 1/3/2013.

Filed Date: 2/5/13.

Accession Number: 20130205–5063.

Comments Due: 5 p.m. ET 2/26/13.

Docket Numbers: ER13–881–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: 2013–02–04 SA 2508 Northstar Wind-Pheasant Ridge-MidAmerican to be effective 2/5/2013.

Filed Date: 2/4/13.

Accession Number: 20130204–5113.

Comments Due: 5 p.m. ET 2/25/13.

Docket Numbers: ER13–882–000.

Applicants: PPL EnergyPlus, LLC.

Description: Request for Waiver, Shortened Comment Period, and Expedited Consideration of PPL EnergyPlus, LLC.

Filed Date: 2/4/13.

Accession Number: 20130204–5163.

Comments Due: 5 p.m. ET 2/19/13.

Docket Numbers: ER13–883–000.

Applicants: Green Energy Partners/Stonewall LLC.

Description: Request for Limited Tariff Waiver and Request for Expedited Action of Green Energy Partners/Stonewall LLC under ER13–883.

Filed Date: 2/4/13.

Accession Number: 20130204–5164.

Comments Due: 5 p.m. ET 2/11/13.

Docket Numbers: ER13–884–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Notice of Cancellation of Large Generator Interconnection Agreement with Happy Whiteface Wind, LLC, et al.

Filed Date: 2/5/13.

Accession Number: 20130205–5072.

Comments Due: 5 p.m. ET 2/26/13.

Docket Numbers: ER13–885–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Consolidated Edison Company of New York, Inc. submits Notice of Cancellation of Rate Schedule No. 66 with the Power Authority of the State of New York.

Filed Date: 2/5/13.

Accession Number: 20130205–5088.

Comments Due: 5 p.m. ET 2/26/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–13–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Amendment to January 4, 2013 Section 204 Application of Midwest Independent Transmission System Operator, Inc.

Filed Date: 1/31/13.

Accession Number: 20130131–5403.

Comments Due: 5 p.m. ET 2/11/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 5, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03154 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–525–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Negotiated Rate Agreement filing—Exelon 40468 to be effective 2/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5064.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–526–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Scheduling of Combination Facilities to be effective 3/3/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5065.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–527–000.

Applicants: Boardwalk Storage Company, LLC.

Description: Order 587–V Compliance Filing to be effective 3/3/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5066.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–528–000.

Applicants: Northern Natural Gas Company.

Description: 20130201 Annual PRA Fuel Rates to be effective 4/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5122.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–529–000.

Applicants: Guardian Pipeline, L.L.C.

Description: NAESB 2.0 to be effective 4/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5160.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–530–000.

Applicants: Midwestern Gas Transmission Company.

Description: NAESB 2.0 to be effective 4/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5163.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–531–000.

Applicants: OkTex Pipeline Company, L.L.C.

Description: NAESB 2.0 to be effective 4/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5166.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–532–000.

Applicants: Viking Gas Transmission Company.

Description: NAESB 2.0 to be effective 4/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5167.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–533–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/01/13 Negotiated Rates—Citigroup Energy Inc. (RTS)—6075–06 & 07 to be effective 2/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5205.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–534–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/01/13 Negotiated Rates—JP Morgan Ventures Energy Corp

(RTS)—6025–43 to be effective 2/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5206.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–535–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/01/13 Negotiated Rates—Sequent Energy Management—(RTS)—3075–10 to be effective 2/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5208.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–536–000.

Applicants: ANR Pipeline Company.

Description: PXP Offshore to be effective 4/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5210.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–537–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/01/13 Negotiated Rates—Spark Energy (RTS)—3045–16 to be effective 2/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5212.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–538–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/01/13 Negotiated Rates—JP Morgan Ventures Corp (HUB)—6025–89 to be effective 2/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5213.

Comments Due: 5 p.m. ET 2/13/13.

Docket Numbers: RP13–539–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/01/13 Negotiated Rates—Sequent Energy Management (HUB)—3075–89 to be effective 2/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5214.

Comments Due: 5 p.m. ET 2/13/13.

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: RP13–378–001.

Applicants: Viking Gas Transmission Company.

Description: 2012 Housekeeping Compliance to be effective 1/22/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5180.

Comments Due: 5 p.m. ET 2/13/13.

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 February 4, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03157 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–860–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3482; Queue No. W3–080 to be effective 1/9/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5043.

Comments Due: 5 p.m. ET 2/22/13.

Docket Numbers: ER13–861–000.

Applicants: PJM Interconnection, L.L.C.

Description: Notice of Cancellation of Original SA No. 3451 in Docket No. ER13–715–000 to be effective 1/3/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5045.

Comments Due: 5 p.m. ET 2/22/13.

Docket Numbers: ER13–862–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3481; Queue No. X4–015 to be effective 1/7/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5046.

Comments Due: 5 p.m. ET 2/22/13.

Docket Numbers: ER13–863–000.

Applicants: Arizona Public Service Company.

Description: APS and SDG&E Kofa Capacitor Bank Project Agreement, Rate Schedule No. 264 to be effective 4/1/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5067.

Comments Due: 5 p.m. ET 2/22/13.

Docket Numbers: ER13–864–000.

Applicants: American Transmission Systems, Incorporation, PJM Interconnection, L.L.C.

Description: ATSI submits First Revised SA No. 2852 among AMP and FirstEnergy Affiliates to be effective 8/1/2012.

Filed Date: 2/1/13.

Accession Number: 20130201–5093.

Comments Due: 5 p.m. ET 2/22/13.

Docket Numbers: ER13–865–000.

Applicants: International Transmission Company.

Description: International Transmission Company submits Compliance Refund Report [9/30/2012 Commission Order in PA10–13].

Filed Date: 2/1/13.

Accession Number: 20130201–5095.

Comments Due: 5 p.m. ET 2/22/13.

Docket Numbers: ER13–866–000.

Applicants: PJM Interconnection, L.L.C.

Description: Notice of Cancellation of Original SA No. 2842 in Dkt No. ER11–3348–000 to be effective 1/9/2013.

Filed Date: 2/1/13.

Accession Number: 20130201–5107.

Comments Due: 5 p.m. ET 2/22/13.

Docket Numbers: ER13–867–000.

Applicants: Michigan Electric Transmission Company, LLC.

Description: Michigan Electric Transmission Company, LLC submits Compliance Refund Report [9/30/2012 Commission Order in PA10–13].

Filed Date: 2/1/13.

Accession Number: 20130201–5108.

Comments Due: 5 p.m. ET 2/22/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03156 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–45–000]

TGP Development Company, LLC; TGP Flying Cloud Holdings, LLC; WEC TX Company, LLC v. Arizona Public Service Company; Notice of Complaint

Take notice that on February 1, 2013, pursuant to Rules 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2013) and section 206 of the Federal Power Act, 16 U.S.C. 824(e) (2006), TGP Development Company, LLC, TGP Flying Cloud Holdings, LLC, and WEC TX Company, LLC (collectively, Complainants) filed a formal complaint against Arizona Public Service Company (APS or Respondent), alleging that sections of APS's November 21, 2013 revisions to its open access transmission tariff is Docket No. ER13–447–000 are unjust and unreasonable. In particular, the Complainants allege that APS's change to the creditworthiness provisions in Attachment I, elimination of in-kind compensation of real power losses in Attachments G and K, and changes to section 3.3.1 of the Large Generator Interconnection Procedures are unjust and unreasonable.

The Complainants certify that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 4, 2013.

Dated: February 4, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–03158 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–879–000]

Josco Energy Corp.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Josco Energy Corp.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is February 26, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03152 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13531–000]

Hydrodynamics, Inc.; Notice Denying Late Intervention

On June 24, 2010, Commission staff issued a three-year preliminary permit to Hydrodynamics, Inc. (Hydrodynamics) to study the feasibility of its proposed East Rosebud Hydroelectric Project No. 13531–000, to be located on East Rosebud Creek in Carbon County, Montana.[1] On January 17, 2013, Friends of East Rosebud, Inc. (Friends of East Rosebud) filed a late motion to intervene in the proceeding.

Hydrodynamics' permit was issued and became administratively final two years and seven months ago, before

[1] *Hydrodynamics, Inc.,* 131 FERC ¶ 62,260 (2010). The permit was issued for a term of 36 months. The permit will therefore expire on May 31, 2013, or on the date Hydrodynamics files an acceptable development application, whichever occurs first.

Friends of East Rosebud submitted its motion to intervene.[2] Hydrodynamics has not submitted a development application for its proposed project. Therefore, there is no open proceeding in which to intervene, and Friends of East Rosebud's motion to intervene must be dismissed.[3]

This notice constitutes final agency action. Requests for rehearing by the Commission of this dismissal must be filed within 30 days of the date of issuance of this notice pursuant to section 313(a) of the Federal Power Act and section 385.713 of the Commission's regulations, 18 CFR 385.713 (2012).

Dated: February 6, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–03151 Filed 2–11–13; 8:45 am]

BILLING CODE 6717–01–P

[2] A Commission order granting a preliminary permit is final on the date it is issued unless a party to the proceeding petitions for rehearing within 30 days of issuance. Since no one filed a timely rehearing petition, Hydrodynamic's preliminary permit proceeding was closed and the preliminary permit became final and unreviewable.

[3] Should Hydrodynamics file a development application for its proposed project, notice of the application will be published, and interested entities, including the Friends of East Rosebud will have the opportunity to intervene and present its views concerning the project. To the extent that the Friends of East Rosebud seeks to be kept informed of any new activity in the docket, it may register and eSubscribe to the docket at *https://ferconline.ferc.gov/eSubscription.aspx.*

ENVIRONMENTAL PROTECTION AGENCY

[FRL–13–006 and 9779–7]

Notice of Availability of the Draft Issuance of the Small Municipal Separate Storm Sewer System NPDES General Permit—New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Draft NPDES General Permits.

SUMMARY: The Director of the Office of Ecosystem Protection, Environmental Protection Agency-Region 1 (EPA), is issuing this Notice of Availability of a draft National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small Municipal Separate Storm Sewer Systems (MS4s) to certain waters of the State of New Hampshire. The draft NPDES general permit establishes Notice of Intent (NOI) requirements, prohibitions, and management practices for stormwater discharges from small MS4s. A prior Notice of Availability of a draft general permit was issued by EPA in December 2008. EPA has substantially modified the draft general permit and is issuing a new draft general permit pursuant to 40 CFR 124.6.

DATES: Comments must be received on or before April 15, 2013. The general permit shall be effective on the date specified in the **Federal Register** publication of the Notice of Availability of the final general permit. The final general permit will expire five years from the effective date.

Public Hearing Information: EPA will hold a public hearing in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral comments for the official draft permit record. The public hearing will be held March 14, 2013 from 2:00pm to 5:00pm at the following location: NH Department of Environmental Services Pease Field Office—Pease International Tradeport—222 International Drive, Suite 175—Portsmouth, New Hampshire 03801.

ADDRESSES: Submit comments by one of the following methods:

- *Email: Tedder.Newton@epa.gov*
- *Mail:* Newton Tedder, US EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code—OEP06–4, Boston, MA 02109–3912.

No facsimiles (faxes) will be accepted.

The draft permit is based on an administrative record available for public review at EPA-Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109–3912. A reasonable fee may be charged for copying requests. The fact sheet for the draft permit sets forth principal facts and the significant factual, legal, methodological and policy questions considered in the development of the draft permit and is available upon request. A brief summary is provided as **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding legal holidays from: Newton Tedder, Office of Ecosystem Protection, Environmental Protection Agency, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1038; email: *Tedder.Newton@epa.gov*

SUPPLEMENTARY INFORMATION:

Background of Proposed Permit

EPA is proposing to reissue three draft NPDES general permits for the discharge of stormwater from small MS4s to certain waters within the State of New Hampshire. The three permits are:

NHR041000—Traditional cities and towns

NHR042000—Non-traditional state, federal, county and other publicly owned systems

NHR043000—Non-traditional transportation systems

While these are technically distinct permits, for convenience we have grouped them together in a single document and have provided a single fact sheet for all three of them, and this document refers to the draft general ''permit'' in the singular. The draft general permit, appendices, and fact sheet are available at: *http://www.epa.gov/region1/npdes/stormwater.*

The conditions in the draft permit are established pursuant to Clean Water Act (CWA) section 402(p)(3)(iii) to ensure that pollutant discharges from small MS4s are reduced to the Maximum Extent Practicable (MEP), protect water quality, and satisfy the appropriate requirements of the CWA. The regulations at 40 CFR 122.26(b)(16) define a small municipal separate storm sewer system as ''all separate storm sewers that are:

(1) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

(2) Not defined as 'large' or 'medium' municipal separate storm sewer systems pursuant to paragraphs (b)(4) or (b)(7) or designated under paragraph (a)(1)(v) of this section [40 CFR 122.26].

(3) This term includes systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospital or prison complexes, and highways or other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.''

The draft general permit sets forth the requirements for the small MS4 to ''reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design

and engineering methods'' (See section 402(p)(3)(B)(iii) of the CWA). MEP is the statutory standard that establishes the level of pollutant reductions that MS4 operators must achieve. EPA believes that implementation of best management practices (BMPs) designed to control storm water runoff from the MS4 is generally the most appropriate approach for reducing pollutants to satisfy the MEP standard. Pursuant to 40 CFR 122.44(k), the draft permit contains BMPs, including development and implementation of a comprehensive stormwater management program (SWMP) as the mechanism to achieve the required pollutant reductions.

Section 402(p)(3)(B)(iii) of CWA also authorizes EPA to include in an MS4 permit ''such other provisions as [EPA] determine[s] appropriate for control of … pollutants.'' This provision forms a basis for imposing water quality-based effluent limitations (WQBELs), consistent with the authority in Section 301(b)(1)(C) of the CWA. *See Defenders of Wildlife* v. *Browner,* 191 F.3d 1159, 1166–67 (9th Cir. 1999); 64 FR 68722, 68753, 68788 (Dec. 8, 1999). Accordingly, the draft permit contains the water quality-based effluent limitations, expressed in terms of BMPs, which EPA has determined are necessary and appropriate under the CWA.

EPA issued a final general permit to address stormwater discharges from small MS4s on May 1, 2003. The 2003 general permit required small MS4s to develop and implement a SWMP designed to control pollutants to the maximum extent practicable and protect water quality. This draft permit builds on the requirements of the previous general permit.

EPA views the MEP standard in the CWA as an iterative process. MEP should continually adapt to current conditions and BMP effectiveness. Compliance with the requirements of this general permit will meet the MEP standard. The iterative process of MEP consists of a municipality developing a program consistent with specific permit requirements, implementing the program, evaluating the effectiveness of the BMPs included as part of the program, then revising those parts of the program that are not effective at controlling pollutants, then implementing the revisions, and evaluating again. The changes contained in the draft general permit reflect the iterative process of MEP. Accordingly, the draft general permit contains more specific tasks and details than the 2003 general permit.

EPA initially proposed a draft permit in December 2008. Based on comments and information gathered while developing responses, EPA has modified the initial draft general permit and is issuing a new draft permit pursuant to 40 CFR 124.6. The changes to the draft general permit include, but are not limited to: provisions addressing discharges to impaired waters without a Total Maximum Daily Load, including requirements related to discharges to the Great Bay watershed and chlorides-impaired waters; provisions related to Total Maximum Daily Loads that have been approved since December 2008; illicit discharge detection elimination and monitoring provisions. The draft general permit has also been revised to provide for coverage to MS4s that became subject to NPDES permit requirements with the issuance of updated urbanized area delineations based on the results of the 2010 Census. The 2008 draft general permit also addressed certain areas outside of New Hampshire. This revised draft general permit applies only to New Hampshire

EPA is specifically seeking public comment on the specific permit Parts listed above, but will accept comment on all permit provisions. Please note that the new Draft Permit completely supersedes the 2008 draft permit, and EPA is providing an entirely new comment period under 40 CFR 124.10. Consequently, all persons who believe any condition of the new Draft Permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position during this public comment period, which includes the public hearing.

Summary of Permit Conditions

Obtaining Authorization

In order for a small MS4 to obtain authorization to discharge, it must submit a complete and accurate NOI containing the information in Appendix E of the draft general permit. The NOI must be submitted within 90 days of the effective date of the final permit. The effective date of the final permit will be specified in the **Federal Register** publication of the Notice of Availability of the final permit. A small MS4 must meet the eligibility requirements of the general permit found in Part 1.2 and Part 1.9 prior to submission of its NOI. A small MS4 will be authorized to discharge under the permit upon receipt of written notice from EPA following a public notice of the submitted NOI. EPA will authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or an individual permit.

Water Quality Based Effluent Limitations

The draft permit includes provisions to ensure that discharges do not cause or contribute to exceedances of water quality standards. The provisions in Parts 2.1 and 2.2 of the general permit constitute the water quality-based effluent limitations of the permit. The purpose of these parts of the permit is to establish the board inclusion of water quality-based effluent limitations for those discharges requiring additional controls in order to achieve water quality standards and other water quality related objectives, consistent with 40 CFR 122.44(d). The non-numeric effluent limitation requirements of this permit are expressed in the form of control measures and BMPs (see Part 2.3 of the general permit).

Non-Numeric Effluent Limitations

When EPA has not promulgated effluent limitations for a category of discharges, or if an operator is discharging a pollutant not covered by an effluent limitation guideline, effluent limitations may be based on the best professional judgment (BPJ) of the agency or permit writer. The BPJ limits in the general permit are in the form of non-numeric control measures, commonly referred to as best management practices (BMPs). EPA has interpreted the CWA to allow BMPs to take the place of numeric effluent limitations under certain circumstances. 40 CFR 122.44(k) provides that permits may include BMPs to control or abate the discharge of pollutants when: ''(1) [a]uthorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances form ancillary industrial activities; (2) [a]uthorized under section 402(p) of the CWA for the control of stormwater discharges; (3) [n]umeric effluent limitations are infeasible; or (4) [t]he practices are reasonable to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.'' The permit regulates stormwater discharges using BMPs. Due to the variability associated with stormwater, EPA believes the use of BMPs is the most appropriate method to regulate discharges of stormwater from municipal systems in accordance with the above referenced regulation.

The small MS4s are required to implement a SWMP that includes the following control measures: public education and outreach; public participation; illicit discharge detection and elimination; construction stormwater management; stormwater

management in new development and redevelopment; and good housekeeping in municipal operations. Implementation of the SWMP involves the identification of BMPs and measurable goals for BMPs. The draft permit identifies an objective for each control measure.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. The public comment process and the public hearing will be conducted in accordance with 40 CFR 124, EPA's Procedures for Decisionmaking. EPA will consider and respond to all significant comments before taking final action. All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period, either by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**, or by submitting written or oral comments at the public hearing. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in this proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.

Other Legal Requirements

A. Endangered Species Act

The provisions related to the ESA have not been changed from those in the 2008 draft permit. However, the Atlantic Sturgeon (*Acipenser oxyrinchus*) has been added to the list of species of concern for this draft permit. EPA requested concurrence from the appropriate Federal services (U.S. Fish and Wildlife Service and National Marine Fisheries Service) in connection with the 2008 draft and has renewed this request for the new Draft Permit.

B. Executive Order 12866

EPA has determined that this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

C. Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and assigned OMB control number 2040–0004.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. However, general NPDES permits are not ''rules'' subject to the requirements of 5 U.S.C. 553(b) and are therefore not subject to the RFA.

E. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state, and local governments and the private sector. However, general NPDES permits are not ''rules'' subject to the requirements of 5 U.S.C. 553(b) and are therefore not subject to the RFA or the UMRA.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: February 5, 2013.

H. Curtis Spalding,

Regional Administrator, Region 1.

[FR Doc. 2013–03055 Filed 2–11–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9778–8; CERCLA–04–2012–3777]

Circle Environmental #1 and #2 Sites; Dawson, Terrell County, GA; Notice of Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of settlement.

SUMMARY: Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement with thirty-four (34) parties to recover past cost resulting from a removal action at the Circle Environmental #1 and #2 Superfund Sites located in Dawson, Terrell County, Georgia.

DATES: The Agency will consider public comments on the settlement until March 14, 2013. 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.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments by Site name Circle Environmental # 1 and #2 Site by one of the following methods:

- *www.epa.gov/region4/superfund/programs/enforcement/enforcement.html.*
- *Email. Painter.Paula@epa.gov.*
- U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404/562–8887.

Dated: January 15, 2013.

Anita L. Davis,

Chief, Superfund Enforcement & Information Management Branch, Superfund Division.

[FR Doc. 2013–03252 Filed 2–11–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted to the Office of Management and Budget for Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice and 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. 3501–3520), 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 estimate; 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 burden for 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 March 14, 2013. 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, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0059.

Title: Statement Regarding the Importation of Radio Frequency Devices Capable of Harmful Interference.

Form No.: FCC 740.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 10,000 respondents, 2,000,000 responses.

Estimated Time Per Response: 30 sec (.0084 hours).

Frequency of Response: One time reporting requirement and third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. sections 154(i), 157(a), 302(a), 303(b), 303(f), 303(g) and 303(r).

Total Annual Burden: 33,600 hours.

Total Annual Costs: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There are no confidentiality issues.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance from them.

The FCC, working in conjunction with the U.S. Customs Service is responsible for the regulation of both authorized radio services and devices that can cause interference. FCC Form 740 must be completed for each radio frequency device which is imported into the United States, and is used to keep non-compliant devices from being distributed to the general public, thereby reducing the potential for harmful interference being caused to authorized communications. FCC Form 740 is submitted to the U.S. Customs Service and Border Patrol electronically or in a few cases paper format. The FCC Form 740 is not submitted to the Federal Communications Commission. When a violation is discovered, the FCC can issue a fine. If a product is suspected of illegal entry, the FCC works with the U.S. Customs Service to resolve the issue.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–03216 Filed 2–11–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

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. 3501—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 estimate; 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 burden for 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 April 15, 2013. 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 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, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Comprehensive Market Data Collection for Interstate Special Access Services, FCC 123–153.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 6,387 respondents; 6,387 responses.

Estimated Time per Response: 134 hours (average).

Frequency of Response: One time reporting requirement and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154, 201, 202, 218 and 706 of the Communications Act of 1934, as amended.

Total Annual Burden: 856,614 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission adopted two orders to protect proprietary and confidential information in this proceeding. The *Modified Protective Order* protects respondents against public disclosure of proprietary and commercially sensitive information. Such information is marked ''confidential,'' is redacted from public documents, and may only be disclosed to counsel (either in-house or outside) or experts and their employees who comply with the procedures in the *Modified Protective Order.* Under the *Modified Protective Order,* disclosure is limited to counsel or experts and their employees that are not involved in competitive decision-making, *i.e.,* do not participate in any of the client's business decisions made in light of information about a competitor.

In response to requests from interested parties, the Bureau adopted a

Second Protective Order, which provides for more stringent protection of information deemed ''highly confidential.'' As opposed to the confidential data covered by the *Modified Protective Order,* the *Second Protective Order,* documents—or portions thereof—are eligible for highly confidential treatment only if they fall into one of eight categories of information designated as ''highly confidential'' by the Bureau.

Needs and Uses: The Commission will submit this new information collection to the Office of Management and Budget (OMB) for approval after this comment period In a December 2012 Report and Order, FCC 12–153, the Commission initiated a comprehensive special access data collection and specified the nature of the data to be collected and the scope of respondents. In conjunctions with the market analysis proposed by the Commission in a December 2012 Further Notice of Proposed Rulemaking, FCC 12–153, the data, information and documents acquired through this new collection will aid the Commission in conducting a comprehensive evaluation of competition in the special access market and updating its rules for pricing flexibility for special access services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–03227 Filed 2–11–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens and as required by the Paperwork Reduction Act of 1995, Public Law 104–13, 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 estimate; 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 burden for 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: Persons wishing to comment on this information collection should submit comments April 15, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicolas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov,* and to Judith-B.Herman@fcc.gov, Federal Communications Commission (FCC). To submit your comments by email send them to: PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1129.

Title: Broadband Speed Test and Unavailability Registry.

Form Number: N/*A.*

Type of Review: Extension of a currently approved collection.

Respondents: Individuals and households.

Number of Respondents: 7,300 respondents; 7,300 responses.

Estimated Time per Response: .017 hours.

Frequency of Response: On occasion reporting requirement, and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Public Law 111–5, American Reinvestment and Recovery Act of 2009; Public Law 110–385, Broadband Data Improvement Act of 2008, 47 U.S.C. 103(c)(1).

Total Annual Burden: 124 hours.

Total Annual Cost: N/*A.*

Privacy Impact Assessment: Yes. The Commission will retain the street and IP address information obtained from participants in the speed test. The Commission will not release individual personally identifiable information (PII) to the public. As noted in the supporting statement, page 2, the FCC is committed to protecting the PII that is being collected, stored, maintained, and used as part of the Broadband Plan and the Broadband Map and the related impact studies and filing processes.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. If the Commission requests that respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459. The FCC has a system of records, FCC/OSP–1, ''Broadband Dead Zone Report and Consumer Broadband Test,'' to cover the collection, purpose(s), storage, safeguards, and disposal of the personally identifiable information (PII) that individuals may submit to enable these US residents to voluntarily report the unavailability of broadband service at the household street address level and to test the speed and quality of their broadband service and to provide the Commission with unique data on household availability of broadband and on relative broadband speeds.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full, three year clearance from them. The Commission is seeking an extension for these requirements. There is no change in the Commission's previous burden estimates.

The Broadband Data Improvement Act of 2008, Public Law 110–385, Stat 4096, section 103(c)(1) directs the Commission to collect information on the types of technology used to provide broadband to large businesses and small businesses, the price of such services, actual data transmission speeds and the reasons for non-adoption of broadband service. Additionally, the FCC in the *2008 Broadband Data Gather Order* (23 FCC Rcd at 9699, para. 18, 73 FR 37869, 73 FR 37911), instructs the Commission to ''design and implement a voluntary system that households may use to report availability and speed of broadband Internet access service at their premises.''

The purpose of this collection is to enable residents of the United States to voluntarily report the unavailability of broadband service at the household street address level and to test the speed

and quality of their broadband service. This collection will provide the Commission with unique data on household availability of broadband and on relative broadband speeds.

OMB Control Number: 3060–1042.

Title: Request for Technical Support—Help Request Form.

Form Number: N/A—electronic only.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals and households, business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 36,300 respondents; 36,300 responses.

Estimated Time per Response: 8 minutes.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Voluntary. There is no statutory authority for this information collection.

Total Annual Burden: 4,480 hours.

Total Annual Cost: $387,200.

Privacy Impact Assessment: Yes. Records may include information about individuals or households, and the use(s) and disclosure of this information is governed by the requirements of a system of records, FCC/WTB–7, ''Remedy Action Request System'' (RARS). There are no additional impacts under the Privacy Act.

Nature and Extent of Confidentiality: Submission of the form is voluntary. Individuals may decline to provide the information requested in the on-line form; however, support will not be funnled via electronic means into the Commission. The customer will have to call the Commission to request support in lieu of submitting an electronic submission.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full, three year clearance from them. The Commission is seeking an extension for these requirements. There is no change in the Commission's previous burden estimates.

The FCC maintains Internet software used by the public to apply for licenses, participate in auctions for spectrum, and maintain license information. In this mission, FCC has a ''help desk'' that answers questions related to these systems as well as requesting and/or issuing user passwords for access to these systems. The form currently is available on the Commission's Web site *https://esupport.fcc.gov/request.htm* under OMB control number 3060–1042. This form will continue to substantially decrease public and staff burden since all the information needed to facilitate a support request will be submitted in a standard format but be available to a wider audience. This eliminates or at least minimizes the need to follow-up with the customers to obtain all the information necessary to respond to their request. This form also helps presort requests into previously defined categories to all staff to respond more quickly.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–03228 Filed 2–11–13; 8:45 am]

BILLING CODE 6712–01–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. 3501–3520), the Federal Communications Commission (FCC) 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 estimate; 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 further ways to reduce the information burden for 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 Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 14, 2013. If you anticipate that you will be submitting 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 Leslie F. Smith, Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, send them to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director, FCC, at (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0392.

Title: 47 CFR 1 Subpart J—Pole Attachment Complaint Procedures.

Form Number: N/A.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit, and State, local or tribal governments.

Number of Respondents and Responses: 1,772 respondents; 1,772 responses.

Estimated Time per Response: 0.5 to 100 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 224.

Total Annual Burden: 2,629 hours.

Total Annual Cost: $450,000.

Privacy Act Impact Assessment: No privacy impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR Section 0.459 of FCC rules.

Needs and Uses: The rules and regulations contained in 47 CFR Part 1 Subpart J provide complaint and enforcement procedures to ensure that telecommunications carriers and cable system operators have nondiscriminatory access to utility poles, ducts, conduits, and rights-of-way on rates, terms and conditions that are just and reasonable. The FCC will use the information collected under these rules to hear and resolve petitions for

stay and complaints as mandated by Section 224 of the Communications Act of 1934, as amended. The information that is also filed is used to determine the merits of the petitions and complaints. Additionally, state certifications are used to make public notice of the states' authority to regulate rates, terms and conditions for pole attachments, and to determine the scope of the FCC's jurisdiction.

On April 7, 2011, the FCC released a *Report and Order and Order on Reconsideration,* Implementation of Section 224 of the Act; A National Broadband Plan for our Future, WC Docket No. 07–245 and GN Docket No. 09–51, FCC 11–50. This rulemaking added 47 C.F.R. Section 1.1424. Section 1.1424 states that the procedures for handling pole attachment complaints filed by incumbent local exchange carriers are the same as the procedures for handling other pole attachment complaints. Section 1.1424 further requires incumbent local exchange carriers that claim they are similarly-situated to other attachers to bear the burden of demonstrating their similarity.

The Commission has also revised Section 1.1403(b) which requires that requests for access to a utility's poles, ducts, conduits or rights-of-way by a telecommunications carrier or cable operator be in writing. If access is not granted within 45 days of the request for access, the utility must explain the denial or grant of access conditioned on the performance of make-ready by the 45th day.[1]

The other applicable rule sections remain unchanged: Section 1.1403(c) requires a utility to provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to removal of facilities, termination of any services to those facilities, increase in pole attachment rates, or modification of facilities. Section 1.1403(d) allows a cable television system operator or telecommunications carrier to file a ''Petition for Temporary Stay'' of the action contained in a notice received pursuant to Section 1.1403(c) within 15 days of receipt of such notice. The ''Petition for Temporary Stay'' must contain, in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service or telecommunications service, a copy of the notice, and a certificate of service. The named respondent may file an answer within 7 days of the date the Petition was filed.

Section 1.1403(e) requires cable operators to notify pole owners upon offering telecommunications services.

Section 1.1404 specifies the information that must be included in a pole attachment complaint.

Section 1.1406(b) requires a complainant to file additional information supporting its complaint, if requested by the Commission.

Section 1.1407 requires the respondent to file a response within 30 days from the date the complaint was filed. The complainant then has 20 days from the date the response was filed to file a reply. The response and reply shall be served on all parties listed in the certificate of service.

Section 1.1414 requires states that regulate the rates, terms and conditions for pole attachments to file a certification with the FCC.

Section 1.1417 requires a utility to apportion the cost of providing unusable space on a pole so that such apportionment equals two-thirds of the costs of providing unusable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities. Section 1.1417 sets forth the procedures to be followed in establishing a maximum just and reasonable pole attachment rate.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–03215 Filed 2–11–13; 8:45 am]

BILLING CODE 6712–01–P

[1] The Commission has revised this language slightly to make it comport better with the language in 47 CFR Section 1.1403(b).

FEDERAL COMMUNICATIONS COMMISSION

[DA 12–127]

Emergency Access Advisory Committee; Announcement of Date of Next Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the date of the Emergency Access Advisory Committee's (Committee or EAAC) next meeting. At the March 2013 meeting, the agenda will include discussion of reports from the subcommittees and other activities needed to ensure access to 911 by individuals with disabilities.

DATES: The Committee's next meeting will take place on Friday, March 1, 2013, 10:30 a.m. to 3:30 p.m. (EST), at the headquarters of the Federal Communications Commission (FCC or Commission).

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, in the Commission Meeting Room.

FOR FURTHER INFORMATION CONTACT: Suzy Rosen Singleton, Consumer and Governmental Affairs Bureau, 202–810–1503, or *Suzanne.Singleton@fcc.gov* (email); and/or Zenji Nakazawa, Public Safety and Homeland Security Bureau, 202–418–7949, *Zenji.Nakazawa@fcc.gov* (email).

SUPPLEMENTARY INFORMATION: On December 7, 2010, in document DA 10–2318, Chairman Julius Genachowski announced the establishment and appointment of members and Co-Chairpersons of the EAAC, an advisory committee required by the Twenty-First Century Communications and Video Accessibility Act (CVAA), Public Law 11–260, for the purpose of achieving equal access to emergency services by individuals with disabilities as part of our nation's migration to a national Internet protocol-enabled emergency network, also known as the next generation 9–1–1 system (NG 9–1–1). The purpose of the EAAC is to determine the most effective and efficient technologies and methods by which to enable access to Next Generation 911 (NG 9–1–1) emergency services by individuals with disabilities, and to make recommendations to the Commission on how to achieve those effective and efficient technologies and methods. During the spring of 2011, the EAAC conducted a nationwide survey of individuals with disabilities and released a report on that survey on June 21, 2011. Following release of the survey report, the EAAC developed recommendations, which it submitted to the Commission on December 7, 2011, as required by the CVAA. At the March 2013 EAAC meeting, the agenda will include discussion of reports from the subcommittees and other activities needed to ensure access to 911 by individuals with disabilities.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). 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).

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2013–03211 Filed 2–11–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: ALATRON CORPORATION, INC., Station WAOQ, Facility ID 825, BPH–20121219ACP, From GOSHEN, AL, To BRANTLEY, AL; AZALEA RADIO CORPORATION, Station NEW, Facility ID 183371, BMPH–20121206ACO, From ROUNDUP, MT, To LEWISTOWN HEIGHTS, MT; COLONIAL RADIO GROUP, INC. Station WBYB, Facility ID 4586, BPH–20130104ACK, From KANE, PA, To ELDRED, PA; L. TOPAZ ENTERPRISES, INC., Station KQGD, Facility ID 171502, BPH–20121231AMK, From ELKO, NV, To WINNEMUCCA, NV; SORENSEN PACIFIC BROADCASTING INC., Station KPXP, Facility ID 60854, BPH–20121219ABH, From GARAPAN–SAIPAN, MP, To MANGILAO, GU.

DATES: The agency must receive comments on or before April 15, 2013.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2013–03218 Filed 2–11–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Basel II Recordkeeping and Disclosures

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comments.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). On September 10, 2012, the FDIC requested comment for 60 days on a proposal to extend without revision its Basel II—Recordkeeping and Disclosures information collection, which is currently approved under OMB Control No. 3064–0153. No comments were received on the proposal. The FDIC hereby gives notice of its plan to submit to OMB a request to approve extension of the collection without change pending finalization of proposed rules published in the **Federal Register** on August 30, 2012, and entitled *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action* (77 FR 52792); *Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements* (77 FR 52888); *Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule; Market Risk Capital Rule* (77 FR 52978), and OMB review and action on proposed changes to the collection arising from the rules.

DATES: Comments must be submitted on or before March 14, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NY–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

Title: Basel II: Disclosures and Recordkeeping.

OMB Number: 3064–0153.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks and state savings institutions.

Estimated Number of Respondents: 8.

Estimated Average Time per Response: implementation—330 hours; systems maintenance—27.9 hours; disclosures—5.79 hours; control, oversight and verification—11.05 hours; documentation—19 hours; and supervisory approvals—16.82 hours.

Total Annual Burden: 3,284 hours.

General Description of Collection: On December 7, 2007, the FDIC, the Office of the Comptroller, and the Federal Reserve Board (collectively, the ''Agencies'') issued the joint final rule titled *Risk-Based Capital Standards: Advanced Capital Adequacy Framework* (final rule) implementing a new risk-based regulatory capital framework for institutions in the United States. The final rule requires certain large or internationally active banks and bank holding companies (BHCs) to (1) adopt a written implementation plan, (2) update that plan for any mergers, (3) obtain prior written approvals for the use of certain approaches for determining risk-weighted assets, and (4) make certain public disclosures regarding their capital ratios, their components, and information on implicit support provided to a securitization. There are no required reporting forms associated with this information collection.

The Agencies, on August 30, 2012, proposed three rules that would amend this collection: *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action* (77 FR 52792); *Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements* (77 FR 52888); and *Regulatory Capital Rules: Advanced Approaches Risk-based Capital Rules; Market Risk Capital Rule* (77 FR 52978). An information collection request to revise and rename the collection on the basis of the three rules was submitted to OMB for review in response to which OMB, on February 1, 2013, filed a comment, requesting that the Agencies resubmit their information collection requests when the proposed rules are finalized. Since the FDIC's collection expires on February 28, 2013, the FDIC is proceeding with the renewal process for the existing collection to ensure its continuation until such time as the proposed rules are finalized and the FDIC resubmits to OMB its request to revise the collection.

Request for Comment

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, this 7th day of February, 2013.

Robert E. Feldman.

Executive Secretary.

[FR Doc. 2013–03183 Filed 2–11–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2013–04]

Filing Dates for the Missouri Special Election in the 8th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Missouri has scheduled a Special General Election on June 4, 2013, to fill the U.S. House seat in the Eighth Congressional District vacated by Representative Jo Ann Emerson.

Committees required to file reports in connection with the Special General Election on June 4, 2013, shall file a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Missouri Special General Election shall file a 12-day Pre-General Report on May 23, 2013, and a 30-day Post-General Report on July 4, 2013. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semi-annual basis in 2013 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Missouri Special General Election by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Missouri Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Missouri Special Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $17,100 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

CALENDAR OF REPORTING DATES FOR MISSOURI SPECIAL ELECTION QUARTERLY FILING

Report	Close of books [1]	Reg./Cert. & overnight mailing deadline	Filing deadline
Committees Involved In The Special General (06/04/13) Must File:			
Pre-General	05/15/13	05/20/13	05/23/13
Post-General	06/24/13	07/04/13	07/04/13 [2]
July Quarterly	06/30/13	07/15/13	07/15/13
Semi-Annual Filing Committees Involved in the Special General (06/04/13) Must File:			
Pre-General	05/15/13	05/20/13	05/23/13
Post-General	06/24/13	07/04/13	07/04/13 [2]
Mid-Year	06/30/13	07/31/13	07/31/13

[1] These dates indicate the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee with the Commission up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

Dated: February 5, 2013.

On behalf of the Commission.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 2013–03056 Filed 2–11–13; 8:45 am]

BILLING CODE 6715–01–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 February 27, 2013.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Anna Shelden Ferguson, LayFayette, Indiana; William M. Ferguson III, Cambridge, Kansas; and Joan F. Peck,* Modesto, California; as members of the Ferguson Family Group acting in concert, to retain voting shares of SSB Holdings, Inc., and thereby indirectly retain voting shares of Security State Bank, both in Wellington, Kansas

Board of Governors of the Federal Reserve System, February 7, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–03182 Filed 2–11–13; 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 March 8, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. The *First Bancshares, Inc.,* Hattiesburg, Mississippi; to acquire 100 percent of the voting shares of First National Bank of Baldwin County, Foley, Alabama.

Board of Governors of the Federal Reserve System, February 7, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–03181 Filed 2–11–13; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice-Notice-MK–2013–01; Docket No.2013–0002; Sequence 2]

The President's Management Advisory Board (PMAB); Notification of Upcoming Public Advisory Meeting

AGENCY: Office of Executive Councils, U.S. General Services Administration (GSA).

ACTION: Meeting Notice.

SUMMARY: The President's Management Advisory Board (PMAB), a Federal Advisory Committee established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C., App., and Executive Order 13538, will hold a public teleconference meeting on Friday, February 22, 2013.

DATES: *Effective date:* February 12, 2013.

Meeting date: The meeting will be held on Friday, February 22, 2013, beginning at 11:00 a.m. eastern time, ending no later than 12:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Winslow, Designated Federal Officer, President's Management Advisory Board, Office of Executive Councils, General Services Administration, 1776 G Street NW., Washington, DC 20006, at *scott.winslow@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The PMAB was established to provide independent advice and recommendations to the President and the President's Management Council on a wide range of issues related to the development of effective strategies for the implementation of best business practices to improve Federal Government management and operation.

Agenda: The main purpose for this meeting is for the PMAB to discuss the potential areas of work and focus for 2013. In addition, the PMAB will hear reports from federal agency executives detailing the progress being made in adopting and implementing the Board's previous recommendations on the following: Improving Strategic Sourcing; Curbing Improper Payments; improving Information Technology (IT) portfolio and project management; Senior Executive Service (SES) leadership development and SES performance appraisal systems. More detailed information on these PMAB recommendations can be found on the PMAB Web site (see below).

Meeting Access: The meeting is open to the public; interested members of the public may listen to the PMAB's discussion by calling 1–888–469–2978 and using passcode 90977. Members of the public will not have the opportunity to ask questions or otherwise participate in the teleconference. However, members of the public wishing to comment on the discussion or topics outlined in the Agenda should follow the steps detailed in Procedures for Providing Public Comments below.

Availability of Materials for the Meeting: Please see the PMAB Web site (*http://www.whitehouse.gov/administration/advisory-boards/pmab*) for any available materials and detailed meeting minutes after the meeting. Detailed meeting minutes will be posted within 90 days of the meeting.

Procedures for Providing Public Comments: In general, public statements will be posted on the PMAB Web site (see above). Non-electronic documents

will be made available for public inspection and copying in PMAB offices at GSA, 1776 G Street NW., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect statements by telephoning 202–208–2387. All statements, including attachments and other supporting materials received, are part of the public record and subject to public disclosure. Any statements submitted in connection with the PMAB meeting will be made available to the public under the provisions of the Federal Advisory Committee Act.

The public is invited to submit written statements for this meeting until 12:30 p.m. eastern time on Thursday, February 21, 2013 by either of the following methods:

Electronic or Paper Statements: Submit electronic statements to Mr. Winslow, Designated Federal Officer at *scott.winslow@gsa.gov;* or send paper statements in triplicate to Mr. Winslow at the PMAB GSA address above.

Dated: February 7, 2013.

Stephen Brockelman,

Director, Office of Executive Councils, General Services Administration.

[FR Doc. 2013–03150 Filed 2–11–13; 8:45 am]

BILLING CODE 6820–BR–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice-MVC–2013–01; Docket 2013–0081; Sequence 1]

Protections Against Trafficking In Persons In Federal Contracts

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of a public meeting and request for comments.

SUMMARY: The Federal Acquisition Regulatory Council (FAR Council) is issuing this notice to announce a public meeting and request for comment on the implementation of Executive Order (E.O.) 13627, *Strengthening Protections Against Trafficking In Persons In Federal Contracts,* and Title XVII of the National Defense Authorization Act, Public Law 112–239, the *End Trafficking In Government Contracting Act (ETGCA).* Feedback will be used to help inform the development of regulations and other guidance to implement the E.O. and new statutory provisions and strengthen existing prohibitions on trafficking in persons (''TIP'').

Interested parties may offer oral and/or written comments at a public meeting to be held on March 5, 2013. Parties are also encouraged to provide all written comments directly to *www.regulations.gov.*

DATES: A public meeting will be conducted on March 5, 2013, at 9:00 a.m. eastern time.

Pre-Registration: The public is asked to pre-register by February 25, 2013, due to security and seating limitations. To pre-register, please send an email to Ms. Deborah Lague of the General Services Administration (GSA) at *deborah.lague@gsa.gov.* The pre-registration request should include the first and last name of the attendee(s), and, if applicable, company or organization name. Registration check-in will begin at 8:00 a.m. eastern time and the meeting will start at 9:00 a.m. eastern time and conclude by 12:00 p.m. eastern time. Attendees must be prepared to present a form of government issued photo identification.

Oral Public Comments: Parties wishing to make formal oral presentations at the public meeting must contact Ms. Deborah Lague by electronic mail at *deborah.lague@gsa.gov* no later than February 25, 2013, to be placed on the public speaker list. Time allocations for oral presentations will be limited to five minutes. All formal oral public comments should also be followed-up in writing and submitted to *www.regulations.gov.* When submitting your comments, search for ''Notice-MVC–2013–01'' and reference ''Public Comments on Protections Against Trafficking in Persons''. **Note:** Requests made after the deadline for formal oral presentations will be permitted as time permits and assigned based on the order the requests are received.

Written Comments/Statements: In lieu of, or in addition to, participating in the public meeting, interested parties may submit written comments to *www.regulations.gov* by March 12, 2013. When submitting your comments, search for ''Notice-MVC–2013–01'' and reference ''Public Comments on Protections Against TIP.'' Parties wishing to share written statements at the public meeting must submit such statements to Ms. Deborah Lague at *deborah.lague@gsa.gov* by February 25, 2013.

ADDRESSES: The public meeting will be held at the General Services Administration Auditorium located at 1800 F Street NW., Washington, DC, 20405.

Meeting Accommodations: The public meeting is physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Ms. Lague at *deborah.lague@gsa.gov* or 202–694–8149 by February 25, 2013.

The TTY number for further information is: 1–800–877–8339. When the operator answers the call, let them know the agency is the General Services Administration; the point-of-contact is Deborah Lague at 202.694–8149.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, GSA, Procurement Analyst, at 202–501–0136, for clarification of content. For public meeting information and submission of comment, contact Ms. Deborah Lague, GSA, at 202–694–8149 or *deborah.lague@gsa.gov.*

SUPPLEMENTARY INFORMATION: More than 20 million men, women, and children throughout the world are victims of severe forms of trafficking in persons, defined in section 103 of the Trafficking Victims Protection Act (TVPA) to include the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery as well as sex trafficking. As the largest single purchaser of goods and services in the world, the Federal Government bears a responsibility to ensure that taxpayer dollars do not contribute to trafficking.

The United States has long had a zero-tolerance policy regarding Government employees and contractor personnel engaging in any form of this criminal behavior. FAR Subpart 22.17 codifies the zero tolerance policy. It provides for the use of a clause that requires contractors and subcontractors to notify government employees of trafficking violations and puts parties on notice that the government may impose remedies, including termination, for failure to comply with the requirements.

Recent studies of TIP, including findings made by the Commission on Wartime Contracting and agency Inspectors General, pointed to the need for strengthened guidance and tools to address TIP. Both E.O. 13627, issued on September 25, 2012, and the ETGCA, which became law on January 2, 2013, create a stronger framework for agency prevention of trafficking by, among other things, (i) clarifying what constitutes trafficking or trafficking-related activities in the Federal supply chain, (ii) requiring contractors in

certain circumstances to maintain compliance plans to help ensure their employees do not engage in, or become complicit to, human trafficking in their supply chain, and (iii) establishing requirements for training the Federal acquisition workforce.

For example, E.O. 13627:

• Expressly prohibits Federal contractors, contractor employees, subcontractors and subcontractor employees from (i) failing to disclose basic information or making material misrepresentations regarding the key terms, location, and conditions of employment, (ii) charging employees recruitment fees, (iii) destroying or denying access to an employee's identify documents, and (iv) failing to pay return transportation costs, with certain exceptions, where work is performed outside the United States and the employee is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract;

• Directs that for portions of contract and subcontract work (other than commercially available off-the-shelf items) performed outside the United States where the estimated value of the work performed abroad exceeds $500,000, federal contractors and subcontractors shall maintain an appropriate compliance program during the performance of the contract or subcontract, which shall include: an awareness program for employees, a process for employees to report trafficking-related legal violations, a wage and housing plan in applicable circumstances, and procedures to promote compliance by their subcontractors;

• Requires covered contractors and subcontractors to certify, both before receiving a contract and annually thereafter during the term of the contract or subcontract, to their maintenance of a compliance plan and their lack of engagement in (or remediation and referral of) any trafficking related activities; and

• Directs federal contracting officers to provide notification of trafficking-related violations by contractors or subcontractors to agency Inspectors General and agency officials responsible for suspension and debarment actions.

E.O. 13627 also instructs the Administrator for Federal Procurement Policy to develop guidance to assist agencies in training the Federal acquisition workforce regarding the anti-trafficking obligations of contractors and subcontractors.

Many similar (but not identical) provisions are contained in the ETGCA. In addition, the ETGCA amends title 18 of the United States Code to extend criminal prohibitions against fraudulent labor practices, including trafficking, to contractors and subcontractors overseas. Effective implementation of the trafficking safeguards provided by E.O. 13627 and the ETGCA will increase stability, productivity, and certainty in federal contracting and avoid the disruption and disarray caused by the use of trafficked labor and resulting investigative and enforcement actions.

The FAR Council seeks public comment on the most effective and least burdensome approaches for implementing E.O. 13627 and the ETGCA (which it currently plans to implement through one rulemaking). The input will be considered during the rulemaking process as the FAR Council develops and refines amendments to FAR Subpart 22.7 and other relevant FAR parts to address these actions.

The Council especially welcomes public comment on the following issues:

1. *Focus of guidance.* What requirements do you think are in greatest need of guidance to ensure the goals of E.O. 13627 and the ETGCA are met and what guidance do you recommend?

2. *Contractor practices.* Studies indicate that a number of private sector companies have established, or are in the process of establishing, codes of conduct to eliminate trafficked labor from their supply chains.

a. If you are a contractor, do you already have a code of conduct or plan that addresses trafficked labor? If so, what behavior does it address and what controls does it require? Does your entity perform a significant amount of work overseas? Based on your reading of E.O. 13627 and the ETGCA, what actions do you envision having to take as a government contractor (or subcontractor) beyond what you already are doing to be in compliance with these new requirements?

b. Either based on experience or research of the marketplace, what practices are most effective in prohibiting TIP by contractor and subcontractor employees? What practices will help contractor and subcontractor employees comply with the requirements of E.O. 13627 and the ETGCA?

3. *Oversight.* E.O. 13627 requires federal contractors and subcontractors to allow contracting agencies and other responsible enforcement agencies to have reasonable access to conduct audits, investigations, and other compliance activities. This provision is modeled after a similar requirement in E.O. 13126, which established requirements to ensure that federal agencies do not procure goods made by forced or indentured child labor. Have you had any experiences with the application of audits under E.O. 13126 that the Council should be aware of as it develops its implementing guidance?

4. *Burden considerations.* Both E.O. 13627 and the ETGCA make clear that plans and procedures shall be appropriate to the size and complexity of the contract and to the nature and scope of activities to be performed. As the Council develops regulations to implement this guiding principle and evaluates burden associated with potential guidance, it seek input on the following—

a. What are the types of personnel that you would anticipate being involved in developing and maintaining compliance plans and certifications (*e.g.,* compliance officers, attorneys, human capital specialists)?

b. What do you view to be the most significant drivers of cost in developing and maintaining the plan (*e.g.,* general corporate governance; and

c. What assumptions should the Council make about the amount of labor hours and associated costs required to meet the contractor responsibilities in E.O. 13627 and the law?

Dated: February 6, 2013.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2013–03142 Filed 2–11–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0445]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send

comments to Kimberly Lane, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

School Health Policies and Practices Study (formerly titled School Health Policies and Programs Study, OMB No. 0920–0445, exp. 9/30/2012)—Reinstatement with Change—Division of Adolescent and School Health (DASH), National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention, (CDC).

Background and Brief Description

A limited number of preventable behaviors, usually established during youth and often extended into adulthood, contribute substantially to the leading causes of mortality and morbidity during youth and adulthood. These risk behaviors include those that result in unintentional injuries and violence; tobacco use; alcohol and other drug use; sexual behaviors that contribute to HIV infection, other STDs, and unintended pregnancies; unhealthy dietary behaviors; and physical inactivity.

School-based instruction on health topics offers the most systematic and efficient means of enabling youth people to avoid the health risk behaviors that lead to mortality and morbidity. CDC has previously examined the role schools play in addressing health risk behaviors through the School Health Policies and Programs Study (SHPPS, OMB NO. 0920–0445), a series of data collections conducted at the state, district, school, and classroom levels in 1994 (OMB No. 0920–0340, exp. 1/31/1995), 2000 (OMB No. 0920–0445, exp. 10/31/2002), 2006 (OMB No. 0920–0445, exp. 11/30/2008), and 2012 (OMB No. 0920–0445, exp. 9/30/2012).

CDC plans to reinstate data collection in 2014 and 2016 with changes. SHPPS will assess the characteristics of eight components of school health programs at the elementary, middle, and high school levels: health education, physical education, health services, mental health and social services, nutrition services, healthy and safe school environment, faculty and staff health promotion, and family and community involvement. This data collection will take place at the school- and classroom-levels in 2014 and at the district level in 2016. The school- and classroom-level data collection proposed for 2014 was approved for 2012 but was not conducted because of insufficient funds.

Sixteen questionnaires will be used: seven at the district level, seven at the school level and two at the classroom level. The school- and classroom-level questionnaires will be identical to those approved for data collection in 2012. The district-level questionnaires will include minor modifications to the 2012 questionnaires. For example, question wording will be revised to improve clarity. The school-level data collection also will include vending machine observations, which will yield the only nationally representative dataset of snack and beverage offerings available to students through school vending machines. These observations were a part of the 2012 study protocol but were not conducted because of insufficient funds.

The SHPPS data collection will have significant implications for policy and program development for school health programs nationwide. The results will be used by Federal agencies, state and local education and health agencies, the private sector, and others to support school health programs; monitor progress toward achieving health and education goals and objectives,; develop educational programs, demonstration efforts, and professional education/training; and initiate other relevant research initiatives to contribute to the reduction of health risk behaviors among our nation's youth. SHPPS data also will be used to provide measures for 14 Healthy People 2020 national health objectives. No other national source of data exists for these objectives. The data also will have significant implications for policy and program development for school health programs nationwide.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State Officials	State Recruitment Script (for 2014 study).	42	1	30/60	21
	State Recruitment Script (for 2016 study).	44	1	30/60	22
District Officials	District Recruitment Script (for 2014 study).	320	1	30/60	160
	District Recruitment Script (for 2016 study).	902	1	60/60	902
	District Health Education	685	1	30/60	343
	District Physical Education and Activity	685	1	40/60	457
	District Health Services	685	1	40/60	457
	District Nutrition Services	685	1	30/60	343
	District Healthy and Safe School Environment.	685	1	60/60	685
	District Mental Health and Social Services.	685	1	30/60	343
	District Faculty and Staff Health Promotion.	685	1	20/60	228
School Officials	School Recruitment Script	821	1	60/60	821

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
	School Health Education	640	1	20/60	213
	School Physical Education and Activity	640	1	40/60	427
	School Health Services	640	1	50/60	533
	School Nutrition Services	640	1	40/60	427
	School Healthy and Safe School Environment.	640	1	75/60	800
	School Mental Health and Social Services.	640	1	30/60	320
	School Faculty and Staff Health Promotion.	640	1	20/60	213
Classroom teachers	Classroom Health Education	1,229	1	50/60	1024
	Classroom Physical Education and Activity.	1,229	1	40/60	819
	Total				9,558

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–03195 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-13–13IF]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 and send comments to Kimberly S. Lane, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Pilot Project to Evaluate the Use of Exposure Control Plans for Bloodborne Pathogens in Private Dental Practices—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention estimate that healthcare workers sustain nearly 600,000 percutaneous injuries annually involving contaminated sharps. In response to both the continued concern over such exposures and the technological developments which can increase employee protection, Congress passed the Needlestick Safety and Prevention Act directing the Occupational Safety and Health Administration (OSHA) to revise the Bloodborne Pathogens (BBP) Standard to establish requirements that employers identify and make use of effective and safer medical devices. That revision was published on January 18, 2001, and became effective April 18, 2001.

The revision to OSHA's BBP Standard added new requirements for employers, including additions to the exposure control plan and maintenance of a sharps injury log.

OSHA has determined that compliance with these standards significantly reduces the risk that workers will contract a bloodborne disease in the course of their work. However, exposure control plans for bloodborne pathogens, policies and standards for healthcare workers are based primarily on hospital data.

Approximately one-half of the 11 million healthcare workers in the United States are employed in non-hospital settings, including physician offices, home healthcare agencies, correctional facilities, and dental offices and clinics. Little information is known about the risk management practices in these non-hospital settings. In a small study conducted by the National Institute for Occupational Safety and Health (NIOSH) found that although seven of the eight correctional healthcare facilities visited had written exposure control plans, only two were reviewed and updated annually as required by the OSHA BBP Standard. One reason postulated for non-compliance was that hospital-based standards, policies, and programs may not be appropriate to non-hospital settings. It is important to identify effective methods for using exposure control plans in non-hospital settings and to verify whether the specificity and relevance of bloodborne pathogen training and educational materials for non-hospital facilities can positively impact compliance in dental settings.

The purpose of this proposal is to understand how bloodborne pathogens exposure control plans are implemented in private dental offices, an important segment of the non-hospital based healthcare system. The proposed work will draw on research-to-practice principles and will be assisted by a strong network of dental professional groups, trade associations, and government agencies. Specific objectives are to:

(1) Inventory existing exposure control plans in private dental practices;

(2) determine whether the exposure control plan or other resource is actively used to prevent occupational exposures;

(3) determine available resources and barriers to use such as relevant educational materials, knowledge, costs, availability; and

(4) develop strategies to overcome key barriers to compliance.

The Organization for Safety, Asepsis and Prevention (OSAP) is a unique group of dental educators and consultants, researchers, clinicians, industry representatives, and other interested persons with a collective mission to be the world's leading advocate for the safe and infection-free delivery of oral healthcare. OSAP supports this commitment to dental workers and the public through quality education and information dissemination. OSAP's unique membership includes the variety of partners critical to gather the data on compliance with the OSHA bloodborne pathogens standard, identify barriers and develop strategies to overcome barriers to compliance.

OSAP will be conducting a web survey of private dental practices in the United States. Information collected will include an inventory of existing exposure control plans; whether the plan or other resource is actively used to prevent occupational exposure to bloodborne pathogens; available resources and barriers to use such as relevant education materials, knowledge, costs, and availability. There are no costs to the respondents other than their time. OSAP is working with a publishing partner that has an email distribution list of 45,419 dentists, representing every state in the country. The list represents nearly one-third (32%) of the total population of working dentists in the United States.

The targeted number of completed questionnaires is estimated at about 22,700 (50% participation rate). The survey is estimated to take about 15 minutes for respondents to complete. This survey completion scenario yields an annualized hour burden estimate of 5,675 hours.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs)	Total burden (in hrs)
Private Dental Practices	BBP Exposure Control Plan Survey	22,700	1	15/60	5,675
Total					5,675

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–03180 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0041]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Kimberly S. Lane, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Registration of individuals with Amyotrophic Lateral Sclerosis (ALS) in the National ALS Registry—Revision—(0923–0041, Expiration 7/31/2013)—Agency for Toxic Substances and Disease Registry (ATSDR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

On October 10, 2008, President Bush signed S. 1382: ALS Registry Act which amended the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis (ALS) Registry. The activities described are part of the effort to create the National ALS Registry. The purpose of the registry is to: (1) Better describe the incidence and prevalence of ALS in the United States; (2) examine appropriate factors, such as environmental and occupational, that might be associated with the disease; (3) better outline key demographic factors (such as age, race or ethnicity, gender, and family history) associated with the disease; and (4) better examine the connection between ALS and other motor neuron disorders that can be confused with ALS, misdiagnosed as ALS, and in some cases progress to ALS. The registry will collect personal health information that may provide a basis for further scientific studies of potential risks for developing ALS.

After piloting methodology, on October 18, 2010, the Agency for Toxic Substances and Disease Registry (ATSDR) launched the registration component of the National ALS Registry *www.cdc.gov/als.*

The registration portion of the data collection is limited to information that can be used to identify an individual to assure that there are not duplicate records for an individual. Avoiding duplication of registrants due to obtaining records from multiple sources is imperative to get accurate estimates of incidence and prevalence, as well as accurate information on demographic characteristics of the cases of ALS.

In addition to questions required for registration, there are a series of short surveys to collect information on such things as military history, occupations, residential history, and family history that would not likely be available from other sources.

This project proposes to continue collecting information on individuals with ALS which can be combined with information obtained from existing sources of information and add additional optional risk factor surveys. This combined data will become the National ALS Registry and will be used to provide more accurate estimates of the incidence and prevalence of disease as well as the demographic characteristics of the cases. Information obtained from the surveys will be used to better characterize potential risk factors for ALS which will lead to further in-depth studies.

The existence of the Web site has been advertised by ATSDR and advocacy groups such as the Amyotrophic Lateral Sclerosis Association (ALSA) and the Muscular Dystrophy Association (MDA).

There are between 15,000 and 30,000 individuals living with ALS at any given time. In addition, approximately 6,000 people are diagnosed with ALS each year and we expect about one-quarter of them will participate in the registry. Because an advantage to registration is participating in the surveys, we expect the one time surveys, and the twice yearly survey participation rate will be 50%.

There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Person with ALS	Validation questions (Screener) for suspected ALS cases.	1670	1	2/60	56
	Registration Form of ALS cases	1500	1	7/60	175
	Cases of ALS completing 1-time surveys	750	16	5/60	1000
	Cases of ALS completing twice yearly surveys*.	750	2.7	5/60	169
Total					1400

*The disease progression survey is taken initial and then 3 times the first year (3, 6, 12 months after the initial survey). Because some people's disease progresses more rapidly, clinicians recommended adding the survey at 3 months to make sure everyone had the opportunity to take the survey a second time. In years 2 and 3, the survey would be taken at 6 and 12 months.

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–03193 Filed 2–11–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-13–13GX]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Ron Otten, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Assessment of a Comprehensive Human immunodeficiency virus (HIV) Clinic-Based Intervention to Promote Patients' Health and Reduce Transmission Risk—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting Office of Management and Budget (OMB) approval to collect data that will be used to evaluate an HIV clinic-based intervention to increase the number of HIV patients who (1) have undetectable levels of HIV in their blood, (2) adhere optimally to antiretroviral therapy (ART), (3) attend clinic regularly for primary care, and (4) practice safer sex. These are objectives of the National HIV/AIDS Strategy and goals of the strategic plan of the Division of HIV/AIDS Prevention, Centers for Disease Control and Prevention.

The project will be conducted at six HIV clinics in the United States. This proposed data collection will occur over 3 years.

The intervention that is part of this project focuses primarily on HIV patients who have a detectable viral load, i.e., their viral load is not as low as it can be and is not fully controlled. The intervention components include: (1) Brief counseling from medical providers during primary care visits informed by a behavioral screener completed by patients; (2) a computer-based intervention (CBI) in which patients see short videos of HIV medical providers (not their own providers) talking about the importance of regular clinic attendance, adherence to ART, and safer sex; and (3) one-on-one counseling from a prevention specialist if needed.

The following data will be collected in this project:

- A data manager at each clinic will electronically transmit patient clinical data to CDC using a unique study identification code as the only means of identifying a patient's data. The data files sent to CDC will not contain any medical record numbers, names, or social security numbers. The information will be encrypted and stored in a secure CDC server. The data

collected from patients include (1) a behavioral screener self-administered by patients each time they have a primary care visit. Patients complete the screener in the waiting room before seeing their primary care provider. (2) CBI assessment items on demographic factors, clinic attendance, ART status, ART adherence, and sexual risk behavior that are completed before patients see the CBI videos. Patients with detectable viral loads will be asked to do the CBI three times, spaced approximately three months apart. Patients' CBI responses are not shared with their clinic providers. (3) On a quarterly basis, 50 patients at each clinic will be asked to complete a brief exit survey after their medical exam, asking about topics that the provider may have discussed with them at their medical visit (e.g., adherence, clinic attendance).

- Data collected from primary care medical providers includes a quarterly survey asking them to indicate the types of topics/issues they discussed with their HIV patients.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden hours
Data manager at clinic	Electronic transmittal of clinical variables archived in clinic databases (no form).	6	4	24	576
Patient	Behavioral screener (patients with detectable or undetectable VL; paper form).	6,315	4	5/60	2,105
Patient	CBI assessment items for patients with detectable VL (electronic form).	2,069	3	10/60	1,035
Patient	Patient exit survey (electronic form)	1,200	1	5/60	100
Primary care provider	Provider survey (electronic form)	120	4	10/60	80
Total					3,896

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–03196 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–13–0743]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Kimberly Lane, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Assessment and Monitoring of Breastfeeding-Related Maternity Care Practices in Intra-partum Care Facilities in the United States and Territories (OMB Control No. 0920–0743, Exp. 12/31/2011)—Reinstatement—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Substantial evidence demonstrates the social, economic, and health benefits of breastfeeding for both the mother and infant as well as for society in general. Breastfeeding mothers have lower risks of breast and ovarian cancers and type 2 diabetes, and breastfeeding better protects infants against infections, chronic diseases like diabetes and obesity, and even childhood leukemia and sudden infant death syndrome (SIDS). However, the groups that are at higher risk for diabetes, obesity, and poor health overall, persistently have the lowest breastfeeding rates.

Health professionals recommend at least 12 months of breastfeeding, and Healthy People 2020 establishes specific national breastfeeding goals. In addition to increasing overall rates, a significant public health priority in the United States (U.S.) is to reduce variation in breastfeeding rates across population subgroups. Although CDC surveillance data indicate that breastfeeding initiation rates in the U.S. are climbing, rates for duration and exclusivity continue to lag, and significant disparities in breastfeeding rates persist between African-American and white women.

The health care system is one of the most important and effective settings to improve breastfeeding initiation rates because hospital practices strongly influence infant feeding outcomes. In 2003, CDC convened a panel of experts in surveillance and monitoring of hospital practices related to breastfeeding to identify the most effective way for CDC to address the urgent public health need for nationally representative data on these practices. The Expert Panel's consensus recommendation was to establish an ongoing, national system to monitor and evaluate hospital practices related to breastfeeding among all facilities that routinely provide intrapartum care in the United States. In response to this input, CDC created the first national survey of Maternity Practices in Infant Nutrition and Care (known as the mPINC Survey) in health care facilities (hospitals and free-standing birth centers). The mPINC survey was first

launched in 2007. As it was designed to provide baseline information and to be repeated every two years, it was conducted again in 2009 and 2011. The survey inquired about patient education and support for breastfeeding throughout the maternity stay as well as staff training and maternity care practices.

OMB approval for the 2007 survey included a request to CDC to provide, prior to the fielding of the 2009 iteration, a report to the Office of Management and Budget (OMB) on the results of the 2007 collection. In this report, CDC provided survey results by geographic and demographic characteristics and a summary of activities that resulted from the survey. A summary of mPINC findings was also the anchor of all activities related to the CDC August 2011 Vital Signs activity, marking the first time that CDC decided to highlight improving hospital maternity practices as the CDC-wide public health priority for the month.

A major strength of the mPINC survey design is its structure as an ongoing, national census. The 2013 and 2015 mPINC surveys repeat the prior iterations (2007, 2009, and 2011). Ensuring that the methodology, content, and administration of these will match those used before maximizes the utility not only of the data to be collected in the upcoming survey, but also that of data already collected; fidelity to the original design allows for analyses of the wide spectrum of changes and factors at the hospital, regional, state, and national levels that affect any given hospital's practices. The census design does not employ sampling methods. Facilities are identified by using the American Association of Birth Centers (AABC) and the American Hospital Association (AHA) Annual Survey of Hospitals. Facilities that will be invited to participate in the survey include those that participated in previous iterations and those that were invited but did not participate in the previous iterations, as well as those that have become eligible since the most recent mPINC survey. All birth centers and hospitals with ≥1 registered maternity bed will be screened via a brief phone call to assess their eligibility, identify additional locations, and identify the appropriate point of contact. The extremely high response rates to the previous iterations of the mPINC survey (82% in 2007 and 2009, and 83% in 2011) indicate that the methodology is appropriate and also reflects unusually high interest among the respondent population. The estimated burden for the Telephone Screening Interview is five minutes, and the estimated burden for completing the mPINC Survey is 30 minutes.

As with the initial surveys, a major goal of the 2013 and 2015 follow-up surveys is to be fully responsive to facilities' needs for information and technical assistance. CDC will provide direct feedback to respondents in a customized benchmark report of their results and identify and document progress since 2007 on their quality improvement efforts. CDC will use information from the mPINC surveys to identify, document, and share information related to incremental changes in practices and care processes over time at the hospital, state, and national levels. Data will be also used by researchers to better understand the relationships between hospital characteristics, maternity-care practices, state level factors, and breastfeeding initiation and continuation rates.

Participation in the survey is voluntary, and responses may be submitted by mail or through a Web-based system. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
AHA Hospitals with either > 1 birth or > 1 registered maternity bed.	Telephone Screening Interview	2,398	1	5/60	200
	mPINC Survey	1,730	1	30/60	865
AABC Birth Centers	Telephone Screening Interview	173	1	5/60	14
	mPINC Survey	95	1	30/60	48
Total					1,127

Kimberly S. Lane,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–03194 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis Meeting (ACET)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Time and Date:

11:00 a.m.–2:30 p.m., March 5, 2013.

Place: This meeting is accessible by Web conference. Toll-free +1 (888) 324–9613, Toll +1 (312) 470–7151; Participant Code: ACET

For Participants: URL: *https://www.mymeetings.com/nc/join/*

Conference number: PW4516585

Audience passcode: ACET

Participants can join the event directly at: *https://www.mymeetings.com/nc/join.php?i=PW4516585&p=ACET&t=c.*

Status: Open to the public limited only by web conference. Participation by web conference is limited by the number of ports available (150).

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to Be Discussed: Agenda items include the following topics: (1) ACET Chair's report to the Secretary; (2) Roles and responsibilities for Federal Advisory Committees; (3) Recommendations of topics for the June 2013 ACET meeting; and (4) other

tuberculosis-related issues. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, CDC, 1600 Clifton Road, NE., M/S E–07, Atlanta, Georgia 30333, telephone (404) 639–8317; Email: *zkr7@cdc.gov*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2013–03133 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Medicaid Expansion and Reproductive Health Care for Women, FOA DP 13–002, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11:00 a.m.–5:00 p.m., April 4, 2013 (Closed).

Place: Teleconference .

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Medicaid Expansion and Reproductive Health Care for Women, FOA DP 13–002, initial review.''

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–03131 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Prevalence and Incidence of Inflammatory Bowel Disease, FOA DP 13–001, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date:

11:00 a.m.–5:00 p.m., April 16, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Prevalence and Incidence of Inflammatory Bowel Disease, FOA DP 13–001, initial review.''

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–03132 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Cooperative Research Agreements Related to the World Trade Center Health Program (U01) PAR 12–126, initial review.

Correction: The notice was published in the **Federal Register** on January 30, 2013, Volume 78, Number 20, Page 6329. The place should read as follows:

Place: Atlanta Marriott Century Center, 2000 Century Boulevard NE., Atlanta, Georgia 30345–3306, Telephone: (404) 325–0000.

Contact Person for More Information: Nina Turner, Ph.D., Scientific Review Officer, CDC, 1095 Willowdale Road, Mailstop G800, Morgantown, West Virginia 26505, Telephone: (304) 285–5976.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–03134 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Cost-Benefit of Incentive-based Smoking Cessation for Pregnant Women, FOA DP 13–003, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11:00 a.m.–5:00 p.m., April 2, 2013 (Closed).

Place: Teleconference .

Status: The meeting will be closed to the public in accordance with provisions set

forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Cost-Benefit of Incentive-based Smoking Cessation for Pregnant Women, FOA DP 13–003, initial review.''

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585, *EEO6@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–03130 Filed 2–11–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–685 and CMS–R–290]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a previously approved collection; *Title of Information Collection:* End Stage Renal Disease (ESRD) Network Semi-Annual Cost Report Forms and Supporting Regulations in 42 CFR section 405.2110 and 42 CFR 405.2112; *Use:* Section 1881(c) of the Social Security Act establishes End Stage Renal Disease (ESRD) Network contracts. The regulations found at 42 CFR 405.2110 and 405.2112 designated 18 ESRD Networks which are funded by renewable contracts. These contracts are on 3-year cycles. To better administer the program, CMS is requiring contractors to submit semi-annual cost reports. The purpose of the cost reports is to enable the ESRD Networks to report costs in a standardized manner. This will allow CMS to review, compare and project ESRD Network costs during the life of the contract. Since the last collection, the survey instrument has been revised. The burden has not changed. *Form Number:* CMS–685 (OMB#: 0938–0657); *Frequency:* Reporting—Semi-annually; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 18; *Total Annual Responses:* 36; *Total Annual Hours:* 108. (For policy questions regarding this collection contact Benjamin Bernstein at 410–786–6570. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Reinstatement of a currently approved collection; *Title:* Medicare Program: Procedures for Making National Coverage Decisions; *Use:* The Centers for Medicare & Medicaid Services (CMS) revised the April 27, 1999 (64 FR 22619) notice and published a new notice on September 26, 2003 (68 FR 55634) that described the process we use to make Medicare coverage decisions including decisions regarding whether new technology and services can be covered. We have made changes to our internal procedures in response to the comments we received following publication of the 1999 notice and experience under our new process. Over the past several years, we received numerous suggestions to further revise our process to continue to make it more open, responsive, and understandable to the public. We share the goal of increasing public participation in the development of Medicare coverage issues. This will assist us in obtaining the information we require to make a national coverage determination in a timely manner and ensuring that the Medicare program continues to meet the needs of its beneficiaries. *Form Number:* CMS–R–290 (OCN: 0938–0776); *Frequency:* Annual; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 8,000. (For policy questions regarding this collection contact Katherine Tillman at 410–786–9252. 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 *April 15, 2013:*

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: February 6, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–03059 Filed 2–11–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; State Program Report

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the

Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to Title III and VII State Program Report.

DATES: Submit written or electronic comments on the collection of information by April 15, 2013.

ADDRESSES: Submit electronic comments on the collection of information to: *Elena.Fazio@acl.hhs.gov* Submit written comments on the collection of information to: U.S. Department of Health and Human Services: Administration for Community Living, Washington, DC 20201, Attention: Elena Fazio.

FOR FURTHER INFORMATION CONTACT: Elena Fazio by telephone: (202)357–3583 or by email: *Elena.Fazio@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Older Americans Act (OAA) requires annual program performance reports from States. In compliance with this OAA provision, ACL developed a State Program Report (SPR) in 1996 as part of its National Aging Program Information System (NAPIS). The SPR collects information about how State Agencies on Aging expend their OAA funds as well as funding from other sources for OAA authorized supportive services. The SPR also collects information on the demographic and functional status of the recipients, and is a key source for ACL performance measurement. This collection includes minor revisions of the format from the 2010 approved version. The proposed revised version will be in effect for the FY 2014 reporting year and thereafter, while the current reporting, OMB Approval Number 0985–0008, will be extended to the end of the FY 2013 reporting cycle. The proposed FY 2014 version may be found on the ACL Web site link entitled Proposed SPR for Review available at *http://www.aoa.gov/AoARoot/Program_Results/OAA_Performance.aspx#national.*

ACL estimates the burden of this collection of information as follows: 2,828 hours.

Dated: February 6, 2013.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2013–03139 Filed 2–11–13; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0124]

Food and Drug Administration Drug Shortages Task Force and Strategic Plan; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: To assist the Food and Drug Administration (FDA or Agency) in drafting a strategic plan on drug shortages as required by the Food and Drug Administration Safety and Innovation Act, the Agency is seeking public comment from interested persons on certain questions related to drug and biological product shortages.

DATES: Submit either electronic or written comments by March 14, 2013.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2013–N–0124, by any of the following methods:

Electronic Submissions:

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions:

Submit written submissions in the following way:

• *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2013–N–0124. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kalah Auchincloss, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6208; Silver Spring, MD 20993, 301–796–0659.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, the President signed into law the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144). Section 1003 of FDASIA adds section 506D to the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to require the formation of a task force to develop and implement a strategic plan for enhancing the Agency's response to preventing and mitigating drug shortages. Section 506D of the FD&C Act (21 U.S.C. 356D) requires that the drug shortages strategic plan include the following:

• Plans for enhanced interagency and intra-agency coordination, communication, and decisionmaking;

• Plans for ensuring that drug shortages are considered when the

Secretary initiates a regulatory action that could precipitate a drug shortage or exacerbate an existing drug shortage;

• Plans for effective communication with outside stakeholders, including who the Secretary should alert about potential or actual drug shortages, how the communication should occur, and what types of information should be shared;

• Plans for considering the impact of drug shortages on research and clinical trials; and

• An examination of whether to establish a ''qualified manufacturing partner program'' as described in section 506D(a)(1)(C) of the FD&C Act.

II. Scope of Public Input Requested

Per the directive in section 506D, FDA has formed an internal Drug Shortages Task Force (Task Force) to develop and implement the drug shortages strategic plan. The Task Force is seeking comments from the public on issues related to the development of this strategic plan. Importantly, although FDASIA refers only to a drug shortages strategic plan, we anticipate that the strategic plan will consider prevention and mitigation of both drug and biological product shortages. Accordingly, we are interested in receiving comments on these questions from all parties, including those with an interest in biological products. The Task Force is specifically interested in seeking public input on the following questions:

1. In an effort to address the major underlying causes of drug and biological product shortages, FDA is seeking new ideas to encourage high-quality manufacturing and to facilitate expansion of manufacturing capacity.

a. To assist in the evaluation of product manufacturing quality, FDA is exploring the broader use of manufacturing quality metrics. With that in mind, FDA would like input on the following issues: What metrics do manufacturers currently use to monitor production quality? To what extent do purchasers and prescribers use information about manufacturing quality when deciding how to purchase or utilize products? What kinds of manufacturing quality metrics might be valuable for purchasers and prescribers when determining which manufacturers to purchase from or which manufacturers' products to prescribe? What kinds of manufacturing quality metrics might be valuable for manufacturers when choosing a contract manufacturer? How frequently would such metrics need to be updated to be meaningful?

b. The use of a qualified manufacturing partner program similar to one used under the Biomedical Advanced Research and Development Authority (BARDA) has been suggested as a potentially useful approach to expanding manufacturing capacity and preventing shortages. FDA recognizes that there are important potential differences between the BARDA program and the use of a parallel program to address shortages. For example, the BARDA program covers a relatively stable and limited number of products, but drugs at risk of shortage are many, may change rapidly over time, and are difficult to predict in advance. In addition, FDA does not have funding to pay manufacturers to participate in a drug shortages qualified manufacturing partner program or to guarantee purchase of the end product. With these differences in mind, is it possible to design a qualified manufacturing partner program that would have a positive impact on shortages?

c. Are there incentives that FDA can provide to encourage manufacturers to establish and maintain high-quality manufacturing practices, to develop redundancy in manufacturing operations, to expand capacity, and/or to create other conditions to prevent or mitigate shortages?

2. In our work to prevent shortages of drugs and biological products, FDA regularly engages with other U.S. Government Agencies. Are there incentives these Agencies can provide, separately or in partnership with FDA, to prevent shortages?

3. When notified of a potential or actual drug or biological product shortage, FDA may take certain actions to mitigate the impact of the shortage, including expediting review of regulatory submissions, expediting inspections, exercising enforcement discretion, identifying alternative manufacturing sources, extending expiration dates based on stability data, and working with the manufacturer to resolve the underlying cause of the shortage. Are there changes to these existing tools that FDA can make to improve their utility in managing shortages? Are there other actions that FDA can take under its existing authority to address impending shortages?

4. To manage communications to help alleviate potential or actual shortages, FDA uses a variety of tools, including posting information on our public shortages Web sites and sending targeted notifications to specialty groups. Are there other communication tools that FDA should use or additional information the Agency should share to help health care professionals, manufacturers, distributors, patients, and others manage shortages more effectively? Are there changes to our public shortage Web sites that would help enhance their utility for patients, prescribers, and others in managing shortages?

5. What impact do drug and biological product shortages have on research and clinical trials? What actions can FDA take to mitigate any negative impact of shortages on research and clinical trials?

6. What other actions or activities should FDA consider including in the strategic plan to help prevent or mitigate shortages?

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: February 7, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–03198 Filed 2–11–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Current Traumatic Brain Injury State Implementation Partnership Grantees; Non-Competitive One-Year Extension Funds

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of Non-Competitive One-Year Extension Funds for Current Traumatic Brain Injury (TBI) State Implementation Partnership (H21) Grantees.

SUMMARY: The Health Resources and Services Administration (HRSA) will issue funding for a non-competitive one-year extension for the State Implementation Partnerships (H21) awards to current grantees whose awards are scheduled to end in fiscal year (FY) 2013. Up to $250,000 per

grantee will be awarded over a one-year extended project period.

The HRSA TBI Program was initially authorized by the Traumatic Brain Injury Act of 1996 (Pub. L. 104–166) and was most recently reauthorized by the Traumatic Brain Injury Act of 2008 (Pub. L. 110–206). Under this authority, the HRSA TBI Program is charged with improving access to rehabilitation and other services for individuals with traumatic brain injury and their families. The TBI State Implementation Partnership Grants support activities that complement existing state infrastructure to provide needed services following TBI. Through comprehensive and periodic needs and resources assessments, activities supported by grant funds are aligned with the highest priority areas as determined by providers, individuals with TBI and their families, advocates, and other stakeholders. Recipients of grant funds are expected to modify infrastructure in such a way that improvements in service delivery will be sustained beyond the grant period. As part of this charge, grantees must specifically have or develop the following four core components:

(1) A Statewide Advisory Board consisting of members of the community, and representatives of other state agencies with an interest in TBI, such as State Departments of Health, Rehabilitation, Human Services, Education, Transportation, or Labor. This board should also have strong representation from individuals with TBI and/or family members; and also organizations that serve individuals with TBI; and other service providers, medical and non-medical;

(2) A designated state agency that takes responsibility for carrying out activities of the grant;

(3) A statewide needs and resources assessment; and

(4) A comprehensive Statewide Action Plan for assisting individuals with TBI and their families to increase access to needed services and supports.

SUPPLEMENTARY INFORMATION: Grantees of record and intended award amounts are:

Grantee/organization name	*Grant number*	*State*	*FY2012 authorized funding level*	*FY2013 estimated funding level*
Alabama Department of Rehabilitation Services	H21MC06738	AL	$245,100	$245,100
Arizona Department of Economic Security	H21MC06754	AZ	249,915	249,915
Idaho State University	H21MC07735	ID	250,000	250,000
Indiana Vocational Rehabilitation Services	H21MC06756	IN	249,739	249,739
Iowa Department of Public Health	H21MC06748	IA	250,000	250,000
Massachusetts Rehabilitation Commission	H21MC06737	MA	250,000	250,000
Michigan Department of Community Health	H21MC06747	MI	250,000	250,000
Missouri Department of Health and Senior Services	H21MC06740	MO	250,000	250,000
Nebraska Department of Education	H21MC06758	NE	250,000	250,000
Health Research, Inc./New York State Department of Health	H21MC06742	NY	249,909	249,909
North Carolina Department of Health and Human Services	H21MC06746	NC	250,000	250,000
State of Ohio Rehabilitation Services Commission	H21MC06771	OH	248,500	248,500
Tennessee Department of Health	H21MC06739	TN	250,000	250,000
Virginia Department of Rehabilitative Services	H21MC06763	VA	250,000	250,000
West Virginia University	H21MC11468	WV	250,000	250,000
Oregon State Department of Education	H21MC06769	OR	249,999	249,999
Texas Health & Human Services Commission	H21MC16375	TX	250,000	250,000

Amount of the Award(s): Up to $250,000 per grantee over a one-year project period. CFDA Number: 93.234

Current Project Period:

- All grants in this cohort except Texas: 4/1/2006–3/31/2013 (competing continuations awarded 4/1/2009)
- Texas: 4/1/2006–8/31/2013 (competing award 9/1/2009)

Period of Additional Funding:

- All grants in this cohort except Texas: 4/1/2013—3/31/2014
- Texas: 9/1/2013—8/31/2014

Authority: Public Health Service Act, Title XII, Section 1252 (42 USC 300d–52) as amended by the Children's Health Act of 2000, sec.1304, Pub. L. 106–310, as further amended by the Traumatic Brain Injury Act of 2008, sec. 6(a), Pub. L. 110–206.

Justification: The Maternal Child Health Bureau (MCHB) within HRSA has determined, through assessment of its State Implementation Partnership (H21) grants, that a series of services are commonly identified as ''needs'' via state-conducted assessments and as such are common programmatic activities pursued under the auspices of H21 grants. MCHB proposes a one-year extension of the current grant cohort to allow time to refine the focus of the H21 program, defining these common activities, crafting appropriate performance measures, and securing clearance to collect uniform data on these activities that demonstrate the impact of this program on the target population.

In the interest of continuing to align the structure of the program with the needs of this population, and therefore fulfilling our legislative charge, the TBI Program proposes this course of action: To align the next grant competition with demonstrated areas of need, to capture uniform data on the impact of this program, to provide for sufficient fiscal resources to continue programmatic activities, and to maintain MCHB programmatic support with the least disruption to the state, community, affected constituencies who are currently receiving assistance and services from these grantees, and the grantees themselves.

In general, the project period for 17 TBI State Implementation Partnership grantees would end March 31, 2013, and a robust competitive process would have taken place in December 2012. MCHB does not believe the idea of conducting a competition at this time is appropriate or cost effective. Therefore, MCHB proposes to extend the project period of these grants into FY 2014. Awards will be subject to the availability of funds.

FOR FURTHER INFORMATION CONTACT: LCDR Donelle McKenna, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 13–61, Rockville, Maryland 20857 or email *dmckenna@hrsa.gov*.

Dated: February 5, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–03153 Filed 2–11–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Microbiology.

Date: February 18, 2013.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mai.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 6, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03119 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special; Emphasis Panel; Time-Sensitive Obesity Applications

Date: March 14, 2013.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special; Emphasis Panel; Ancillary R01 Application for PKD.

Date: March 20, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, Niddk, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: February 6, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03112 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Musculoskeletal, Oral and Skin Systems

Date: March 6, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: NIGMS Program Project Review

Date: March 6–7, 2013.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: James J Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, *lijames@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry and Biophysics

Date: March 6–7, 2013

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Healthcare Delivery and Methodologies
Date: March 6, 2013
Time: 11:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call)
Contact Person: John Newman, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, 301–267–9270, *newmanjh@mail.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Drug Resistance and Drug Discovery
Date: March 7–8, 2013
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting)
Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section
Date: March 7–8, 2013
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications
Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405
Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Risk, Prevention and Health Behavior
Date: March 7–8, 2013
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015
Contact Person: Martha M Faraday, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, 301–435–3575, *faradaym@csr.nih.gov*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Asthma, COPD, Cystic Fibrosis and Lung Host Defense Applications
Date: March 7–8, 2013
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting)
Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 6, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03118 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Board of Scientific Advisors, March 4, 2013, 9:00 a.m. to March 5, 2013, 1:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, Conference Rm. 10, Bethesda, MD, 20892 which was published in the **Federal Register** on January 24, 2013, 78 FR 5192.

This meeting is amended to change it to a one-day meeting to be held on March 4, 2013, from 9:00 a.m. to 5:00 p.m. The meeting is open to the public.

Dated: February 6, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03116 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; R01 Grant Applications.
Date: March 1, 2013.
Time: 12:00 p.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Cancer Institute, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Caterina Bianco, MD, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Suite. 8134, Bethesda, MD 20892–8328, 301–496–7011, *biancoc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 6, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03115 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, March 25, 2013, 8:00 a.m. to March 25, 2013, 5:00 p.m., Hilton Washington DC North—Gaithersburg, 620 Perry Parkway, Gaithersburg, MD, 20877 which was published in the **Federal Register** on January 14, 2013, 78 FR 5190.

This notice is being amended to change the title to ''Novel Imaging Agents to Expand the Clinical Toolkit''. The meeting is closed to the public.

Dated: February 6, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03114 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Ancillary Studies To Large Clinical Projects Grant Review.

Date: March 1, 2013.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health,, Suite 818, 6706 Democracy Blvd., Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Charles N. Rafferty, Ph.D., Chief, Scientific Review Branch, 6701 Democracy Boulevard, Suite 800, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, Bethesda, MD 20817, 301–594–5019, *charles.rafferty@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 5, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03113 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate requests for development resources for potential new cancer diagnostics. The outcome of the evaluation will be information for consideration by an internal NCI committee that will decide whether NCI/DCTD should support the requests and make available contract resources for development of the potential diagnostics to improve the treatment of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Clinical Assay Development Program (CADP).

Date: April 5, 2013.

Time: 9:00 a.m.–4:00 p.m.

Agenda: To evaluate requests for development resources for potential new diagnostics for cancer.

Place: 5635 Fishers Lane, Room 508, Rockville, MD 20852.

Contact Person: Tracy G. Lively, Ph.D., Executive Secretary, Cancer Diagnosis Program (CADP), National Cancer Institute, NIH, 6130 Executive Boulevard, Room 6035A, Bethesda, MD 20892, 301–496–8639, *livelyt@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 6, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–03117 Filed 2–11–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Monitoring of National Suicide Prevention Lifeline (OMB No. 0930–0274)—Revision

This proposed project renewal includes the continuation of previously approved data collection activities Monitoring of National Suicide Prevention Lifeline Form (OMB No. 0930–0274) in an effort to advance the understanding of crisis hotline utilization and its impact. Out of the previously approved 11 data collection instruments and consents, only 6 will be utilized through this revision. The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Mental Health Services (CMHS) funds a National Suicide Prevention Lifeline Network, consisting of a toll-free telephone number that routes calls from anywhere in the United States to a network of local crisis centers. In turn, the local centers link callers to local emergency, mental health, and social service resources.

The overarching purpose of the proposed Monitoring of National Suicide Prevention Lifeline—Revision is to examine the impact of motivational training and safety planning (MI/SP) with callers who have expressed suicidal desire (i.e., follow-up interviews with callers and counselors). In total this effort includes three data collection instruments and three associated data collection consents.

Clearance is being requested to continue the previously approved data collection activities to continue caller and counselor follow-up assessment activities which will examine the process and impact of motivational training and safety planning (MI/SP) with callers who have expressed suicidal ideation. The data collected through the renewal of these data collection activities will ultimately help SAMHSA to understand and direct their crisis hotline lifesaving initiatives. The data collection activities are enumerated below.

Funded crisis centers will train counselors to implement an intervention with callers during the initial call to a center, which incorporates aspects of motivational interviewing and safety planning (MI/SP) and utilizes an evidence-based practice model to provide follow-up to callers who have expressed a suicidal desire. An assessment of MI/SP fidelity and process measures will be incorporated into the design through the

administration of two self-administered questionnaires to crisis center counselors. The impact assessment of MI/SP counselor training will include follow-up telephone interviews with callers to assess their emotions and behaviors following their interaction with the MI/SP trained counselor.

(1) The MI/SP Counselor Attitude Questionnaire attitude questionnaire will be administered to counselors at the conclusion of their MI/SP training and be used as a possible predictor of fidelity of the MI//SP intervention. Information to be gathered includes (a) counselors' views of the applicability of the MI/SP for preparing them to conduct safety planning and follow up with callers; (b) possible anticipated challenges (i.e., impeding factors) to applying the MI/SP training in their centers; (c) the relationship of the MI/SP model to their centers; (d) the extent to which trainees are provided with or obtain adequate resources to enable them to use MI/SP on the job; (e) impeding and facilitating factors; and (f) attitudes about counselors' self-efficacy to use MI/SP and views on its utility. It is expected that a total of 750 counselors will be trained over the course of 3 years in an effort to maintain 175 counselors at any given time. Thus, a total of 750 counselors are expected to complete this questionnaire during the 3-year data collection period. Prior to collecting data from counselors, crisis counselors must have read and signed the MI/SP Counselor Consent. This form explains the purpose of the data collection, privacy, risks and benefits, what the data collection entails, and participant rights. It is anticipated that 750 consents and questionnaires will be collected by crisis counselors during the 3-year data collection period.

(2) At the end of the call and once the counselor deems the intervention to be complete, counselors will ask all appropriate callers, using the MI/SP Caller Initial Script, for permission to be re-contacted by research staff for a follow-up interview. Counselors will state that the caller may be contacted by the research team if randomly selected for a follow-up call. A total of 1,500 callers across the 3-year data collection period will be provided with the MI/SP Caller Initial Script for their consent to be contacted at a later time.

(3) Counselors will be asked to complete the MI/SP Counselor Follow-up Questionnaire for each call that is eligible. The questionnaire will incorporate an assessment of the outreach, telephonic follow up and/or other strategies that the center has proposed to implement, and whether the counselor was able to implement the center's site plan as originally conceived. The questionnaire will also include items on the demographic characteristics of the caller, whether contact was successfully made with the caller, whether the caller followed through with the safety plan and/or referral given by the counselor, whether MI/SP was re-implemented during the follow-up contact, whether another follow-up is scheduled, the educational and crisis experience of the person attempting re-contact with the caller, and that person's prior experience with follow-up. Barriers to implementing the follow-up, as well as types of deviation from the site's follow-up plan will also be assessed. Open-ended questions about what led to deviations from the site's follow-up plan will also be included. In total, it is expected that counselors will complete 3,750 questionnaires across the 3-year data collection period.

(4) Researchers will begin conducting follow-up interviews with callers approximately 6 weeks after the initial call to the center. This follow-up telephone interview (MI/SP Caller Follow-up Interview) will be conducted to collect information on demographic characteristics, gather caller feedback on the initial call made to the center, suicide risk status at the time of and since the call, current depressive symptomatology, follow through with the safety plan and referrals made by the crisis counselor, and barriers to service. Prior to collecting information during the MI/SP Caller Follow-up Interview, researchers will read callers the MI/SP Caller Follow-up Consent Script. Taking into account attrition and the number of callers who do not give consent, it is expected that the total number of follow-up interviews conducted by the research team will not exceed 1,107.

The estimated response burden to collect this information is as follows annualized over the requested 3-year clearance period is presented below:

ANNUALIZED AVERAGES: RESPONDENTS, RESPONSES AND HOURS

Instrument	Number of respondents	Number of responses per respondent *	Total number of responses	Burden/ Response (hours)	Annual burden* (hours)
MI/SP Caller Initial Script	500	1	500	.08	40
MI/SP Caller Follow-up Consent Script	369	1	369	.17	63
MI/SP Caller Follow-up Interview	369	1	369	.67	247
MI/SP Counselor Consent	250	1	250	.08	20
MI/SP Counselor Attitudes Questionnaire	250	1	250	.25	63
MI/SP Counselor Follow-up Questionnaire	250	5	1250	.17	213
Total	1,988				646

* rounded to the nearest whole number

Written comments and recommendations concerning the proposed information collection should be sent by March 14, 2013 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2013–03197 Filed 2–11–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0001]

Notice of Adjustment of Statewide Per Capita Indicator for Recommending a Cost Share Adjustment

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the statewide per capita indicator for recommending cost share adjustments for major disasters declared on or after January 1, 2013, through December 31, 2013, is $133.

DATES: This notice applies to major disasters declared on or after January 1, 2013.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: Pursuant to 44 CFR 206.47, the statewide per capita indicator that is used to recommend an increase of the Federal cost share from seventy-five percent (75%) to not more than ninety percent (90%) of the eligible cost of permanent work under section 406 and emergency work under section 403 and section 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is adjusted annually. The adjustment to the indicator is based on the Consumer Price Index for All Urban Consumers published annually by the U.S. Department of Labor. For disasters declared on January 1, 2013, through December 31, 2013, the qualifying indicator is $133 per capita of State population.

This adjustment is based on an increase of 1.7 percent in the Consumer Price Index for All Urban Consumers for the 12-month period that ended December 2012. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on January 16, 2013.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–03078 Filed 2–11–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–13]

Notice of Submission of Proposed Information Collection to OMB; Family Self-Sufficiency Program Demonstration

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Department is conducting this study under contract with MDRC and its subcontractors (Branch Associates and M. Davis and Company, Inc.). The project is an evaluation of the Family Self-Sufficiency Program operated at Public Housing Agencies (PHAs) across the U.S. The study will use random assignment methods to evaluate the effectiveness of the program. FSS has operated since 1992 and serves voucher holders and residents of public housing. The FSS model is essentially case management plus an escrow account. FSS case managers create a plan with families to achieve goals and connect with services that will enhance their employment opportunities. Families accrue money in their escrow accounts as they increase their earnings. To date, HUD has funded two other studies of the FSS program, but neither can tell us how well families would have done in the absence of the program. A random assignment model is needed because participant self-selection into FSS limits the ability to know whether program features rather than the characteristics of the participating families caused tenant income gains. Random assignment will limit the extent to which selection bias is driving observed results. The demonstration will document the progress of a group of FSS participants from initial enrollment to program completion (or exit). The intent is to gain a deeper understanding of the program and illustrate strategies that assist participants to obtain greater economic independence. While the main objective of FSS is stable, suitable employment, there are many interim outcome of interest, which include: Getting a first job; getting a higher paying job; self-employment/small business ownership; no longer needing benefits provided under one or more welfare programs; obtaining additional education, whether in the form of a high school diploma, higher education degree, or vocational training; buying a home; buying a car; setting up savings accounts; or accomplishing similar goals that lead to economic independence. Data collection will include the families that are part of the treatment and control groups, as well as PHA staff. Data will be gathered through a variety of methods including surveys, informational interviews, direct observation, and analysis of administrative records.

DATES: *Comments Due Date:* March 14, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528-New) 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: Family Self-Sufficiency Program Demonstration.

OMB Approval Number: 2528-New.

Form Numbers: None.

Description of the need for the information and proposed use:

The Department is conducting this study under contract with MDRC and its subcontractors (Branch Associates and M. Davis and Company, Inc.). The project is an evaluation of the Family Self-Sufficiency Program operated at Public Housing Agencies (PHAs) across the U.S. The study will use random assignment methods to evaluate the effectiveness of the program. FSS has operated since 1992 and serves voucher holders and residents of public housing. The FSS model is essentially case management plus an escrow account. FSS case managers create a plan with families to achieve goals and connect with services that will enhance their employment opportunities. Families accrue money in their escrow accounts as they increase their earnings. To date, HUD has funded two other studies of the FSS program, but neither can tell us how well families would have done in the absence of the program. A random assignment model is needed because participant self-selection into FSS limits the ability to know whether program features rather than the characteristics of the participating families caused tenant income gains. Random assignment will limit the extent to which selection bias is driving observed results. The demonstration will document the progress of a group of FSS participants from initial enrollment to program completion (or exit). The intent is to gain a deeper understanding of the program and illustrate strategies that assist participants to obtain greater economic independence. While the main objective of FSS is stable, suitable employment, there are many interim outcome of interest, which include: Getting a first job; getting a higher paying job; self-employment/small business ownership; no longer needing benefits provided under one or more welfare programs; obtaining additional education, whether in the form of a high school diploma, higher education degree, or vocational training; buying a home; buying a car; setting up savings accounts; or accomplishing similar goals that lead to economic independence. Data collection will include the families that are part of the treatment and control groups, as well as PHA staff. Data will be gathered through a variety of methods including surveys, informational interviews, direct observation, and analysis of administrative records.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,000	1		2.126		6,378

Total Estimated Burden Hours: 6,378.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated*: February 6, 2013*.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–03204 Filed 2–11–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5450–N–04]

Federal Housing Administration (FHA): PowerSaver Home Energy Retrofit Loan Pilot Program: Extension of Pilot Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: On March 31, 2011, HUD published a notice that announced HUD's FHA Home Energy Retrofit Loan Pilot Program (Retrofit Pilot Program) known as FHA PowerSaver, which is a pilot program conducted for loans originated during a period of two years, commencing on May 2, 2011. The Retrofit Pilot Program is authorized by the Energy Innovation Fund of the 2010 Appropriations Act, which directs HUD to conduct an Energy Efficient Mortgage Innovation pilot program targeted to the single family housing market. The March 31, 2011, notice provided that HUD may extend the duration of the pilot program through **Federal Register** notice. HUD uses this authority to extend the Retrofit Pilot Program to Title I loan applications dated on or before May 4, 2015.

DATES: The Retrofit Pilot Program is extended for an additional two years to include Title I loan applications dated on or before May 4, 2015.

FOR FURTHER INFORMATION CONTACT: Patricia McBarron, Office of Single Family Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–8000; telephone number 202–708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Consolidated Appropriations Act, 2010 (Pub. L. 111–117, approved December 16, 2009, 123 Stat. 3034), directed HUD to conduct an Energy Efficient Mortgage Innovation pilot program targeted to the single family housing market and allocated $25,000,000 for such pilot program. On March 31, 2011, HUD published a notice at 76 FR 17936 that announced HUD's FHA Home Energy Retrofit Loan Pilot Program known as FHA PowerSaver. The Retrofit Pilot Program, operating under Title I, section 2 of the National Housing Act (12 U.S.C. 1703), authorizes HUD to provide loan insurance in order to help homeowners finance energy-saving alterations, repairs, and improvements in connection with existing structures or manufactured homes.

The March 31, 2011, notice provided that the Retrofit Pilot Program would be conducted for loans originated during a period of two years, commencing on May 2, 2011 and ending on May 2, 2013. The notice also provided that HUD may extend the duration of the Retrofit Pilot Program through **Federal Register** notice in order to better assess the program's effectiveness. HUD has determined that an extension of the Retrofit Pilot Program, as provided in the March 31, 2011, notice, is desirable for evaluating its success. An extension will enable more lenders and homeowners to participate in the Retrofit Pilot Program, thereby

providing additional data for HUD's use in assessing the program's success. Accordingly, through this notice, HUD extends the Retrofit Pilot Program for an additional 2 years, to Title I loan applications dated on or before May 4, 2015.

Dated: February 5, 2013.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2013–03205 Filed 2–11–13; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–365–366 and 731–TA–734–735 (Third Review)]

Certain Pasta From Italy and Turkey Scheduling of Full Five-Year Reviews Concerning the Countervailing and Antidumping Duty Orders on Certain Pasta From Italy and Turkey

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing and antidumping duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: Effective Date: February 6, 2013.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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 review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 10, 2012, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (78 FR 959, January 7, 2013). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on June 18, 2013, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on July 9, 2013, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 1, 2013. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 3, 2013, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is June 27, 2013. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 18, 2013; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the review on or before July 18, 2013. On August 8, 2013, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 12, 2013, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-

Filing, available on the Commission's Web site at *http://edis.usitc.gov.*

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 6, 2013.

Lisa R. Barton

Acting Secretary to the Commission.

[FR Doc. 2013–03088 Filed 2–11–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: The Commission terminated the investigation following the expiration of the statutory requirement that the Commission make such determinations. Section 423(c) of the Tax Reform Act of 1986 (''the Act''), as amended (19 U.S.C. 2703 note), required the United States International Trade Commission to determine annually the amount (expressed in gallons) that is equal to 7 percent of the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. This determination was to be used to establish the ''base quantity'' of imports of fuel ethyl alcohol, and the Commission transmitted it determinations to the U.S. Customs and Border Protection for its use in the further administration of the law.

Section 423(g)(1)(B) of the Act, as amended, states that the effective period of the provisions in section 423 (other than subsection (e)) shall apply to articles entered before the expiration of the effective period of Harmonized Tariff Schedule of the United States heading 9901.00.50. The effective period of this heading expired December 31, 2011.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: For information specific to this investigation, contact project leader Douglas Newman (202) 205–3328, *douglas.newman@usitc.gov,* in the Commission's Office of Industries. For information on legal aspects of the investigation contact William Gearhart, *william.gearhart@usitc.gov,* of the Commission's Office of the General Counsel at (202) 205–3091. The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background

The Commission published its notice instituting this investigation in the **Federal Register** on March 21, 1990 (55 FR10512), and published its most recent previous determination for the 2012 amount in the **Federal Register** on December 30, 2011 (76 FR 82320).

By order of the Commission.

Issued: February 7, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–03168 Filed 2–11–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–539]

U.S.-Korea Free Trade Agreement: Effects on U.S. Small and Medium-Sized Enterprises; Institution of Investigation and Scheduling of Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request dated January 29, 2013 (received on January 30, 2013) from the U.S. Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332–539, U.S.-Korea Free Trade Agreement: Effects on U.S. Small and Medium-Sized Enterprises.

DATES:

February 27, 2013: Deadline for filing requests to appear at the public hearing.

March 1, 2013: Deadline for filing pre-hearing briefs and statements.

March 14, 2013: Public hearing.

March 20, 2013: Deadline for filing post-hearing briefs and statements.

March 25, 2013: Deadline for filing all other written submissions.

May 1, 2013: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: Project Leader Brian Allen (202–205–3034 or *brian.allen@usitc.gov*) or Deputy Project Leader Kyle Johnson (202–205–3229 or *kyle.johnson@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*).

Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: As requested, the Commission will conduct an investigation and prepare a report containing information on the impact of the U.S.-Korea Free Trade Agreement on U.S. small and medium-sized enterprises (SMEs) since entry into force of the agreement on March 15, 2012. The Commission, to the extent practicable, will provide a report discussing the effects of the agreement on the production, distribution, and export strategy of U.S. SMEs, as identified by those SMEs, and describing how U.S. SMEs have benefited from specific provisions of the agreement, as well as challenges that U.S. SMEs may have faced in exporting to Korea. Such provisions may include but are not limited to those related to trade in goods and services or to intellectual property. The report will be based on available information, including information furnished by SMEs and interested parties. The U.S. SME sectors examined may include some or all of the business sectors listed in the three prior Commission reports on SMEs released in 2010, or other appropriate business sectors as information is available.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on March 14, 2013. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., February 27, 2013, in accordance with the requirements in the ''Submissions'' section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., March 1, 2013; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., March 20, 2013. In the event that, as of the close of business on February 27, 2013, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202–205–2000 after February 27, 2013, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., March 25, 2013. All written submissions must conform with the provisions of section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. In its request letter, the USTR stated that it intends to make the Commission's report available to the public in its entirety, and asked that the Commission not include any confidential business information or national security classified information in the report that the Commission sends to the USTR. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: February 7, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–03169 Filed 2–11–13; 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—Sematech, Inc. d/b/a International Sematech

Notice is hereby given that, on January 16, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Sematech, Inc. d/b/a International Sematech (''SEMATECH'') 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, Lintec Corporation, Tokyo, JAPAN; and Cabot Corporation, Boston, MA, 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 Sematech intends to file additional written notifications disclosing all changes in membership.

On April 22, 1988, Sematech 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 May 19, 1988 (53 FR 17987).

The last notification was filed with the Department on October 19, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 4, 2012 (77 FR 71830).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–03137 Filed 2–11–13; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—U.S. Photovoltaic Manufacturing Consortium, Inc.

Notice is hereby given that, on January 15, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), U.S. Photovoltaic Manufacturing Consortium, Inc. (''USPVMC'') 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, Ceres Technologies, Inc., Saugerties, NY, has been added as a party 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 USPVMC intends to file additional written notifications disclosing all changes in membership.

On November 14, 2011, USPVMC 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 December 21, 2011 (76 FR 79218).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–03138 Filed 2–11–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Surface Coal Mine—Daily Inspection, Certified Person, Inspection Report

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Surface Coal Mine—Daily Inspection, Certified Person, Inspection Report,'' 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 March 14, 2013.

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–MSHA, 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: Regulations 30 CFR 77.1713 requires an operator of a surface coal mine and/or surface facility to keep a record of the results of required examinations for hazardous conditions. These records consist of the nature and location of any hazardous condition found and the actions taken to abate the hazardous condition.

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 that 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 1219–0083. The current approval is scheduled to expire on February 28, 2013; 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 October 12, 2012 (77 FR 62266).

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 1219–0083. 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–MSHA.

Title of Collection: Surface Coal Mine—Daily Inspection, Certified Person, Inspection Report.

OMB Control Number: 1219–0083.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1,464.

Total Estimated Number of Responses: 456,768.

Total Estimated Annual Burden Hours: 685,152.

Total Estimated Annual Other Costs Burden: $0.

Dated: February 4, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–03096 Filed 2–11–13; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,137]

Naugatuck Valley Surgical Center, Department of Saint Mary's Hospital, Waterbury, CT: Notice of Affirmative Determination, Regarding Application for Reconsideration

By application dated January 16, 2013, the State of Connecticut Department of Labor requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Naugatuck Valley Surgical Center, Department of Saint Mary's Hospital, Waterbury, Connecticut

(subject firm). The determination was issued on December 11, 2012. The Department's Notice of Determination was published in the **Federal Register** on January 4, 2013 (78 FR 771). The workers supply medical transcription services.

The initial investigation resulted in a negative determination based on the findings that there was no shift in the supply of services to a foreign country by the subject firm and no increased imports of services like or directly competitive with those supplied by the subject worker group.

The request for reconsideration supplied new information regarding a possible acquisition from a foreign country by the subject firm of services like or directly competitive with the services supplied by the subject worker group.

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 25th day of January, 2013.

Del Mi Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–03094 Filed 2–11–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of January 21, 2013 through January 25, 2013.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,086	Ball Metal Beverage Packaging, A Division Of Ball Container LLC.	Columbus, OH	October 16, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,196	Alorica, Inc. (CA), PRC, LLC	Cutler Bay, FL	November 29, 2011.
82,317	Bank of America, Deposit Product Operations And Monitoring.	San Francisco, CA	January 4, 2012.
82,332	River Valley Newspaper Group, Advertising Design Group, Lee Enterprises, Inc..	La Crosse, WI	January 4, 2012.

The following certifications have been issued. The requirements of Section 222(f) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,215	Sharp Electronics Corporation, Solar Group (SESG), Adecco Staffing.	Camas, WA	December 6, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,195	Despatch Industries	Lakeville, MN	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,287	Hewlett Packard	Conway, AR	
82,290	Hewlett Packard Company, Printing & Personal System Americas Division.	Houston, TX	

I hereby certify that the aforementioned determinations were issued during the period of January 21, 2013 through January 25, 2013. These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: January 30, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–03093 Filed 2–11–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications for National Farmworker Jobs Program Grants

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

Funding Opportunity Number: SGA/DFA PY 12–05.

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor (DOL or Department) announces a grant competition for the National Farmworker Jobs Program (NFJP), authorized under section 167 of the Workforce Investment Act (WIA). NFJP provides training, employment services, and related assistance in order to increase economic opportunities for migrant and seasonal farmworkers (MSFW) and their dependents. The Department is exercising its option under WIA to continue grant awards to NFJP grantees that have performed successfully, and hold a grant competition for service delivery areas in which the current grantee has not performed adequately. Therefore, this grant competition is only seeking applications to operate NFJP in the following service areas: California (central California service area covering Merced, Madera and Stanislaus Counties), Hawaii, Indiana, Michigan, Mississippi, New Jersey, and Puerto Rico. A total of approximately $9.6 million is expected to be available for grants in these service areas. However, the final amount available depends upon the amount of funds appropriated for NFJP in the Fiscal Year (FY) 2013 Department of Labor Appropriations Act.

The complete SGA and any subsequent SGA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or on *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications under this announcement is April 2, 2013. Applications must be received no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Serena Boyd, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Telephone: 202–693–3338.

Signed February 4, 2013 in Washington, DC

Donna Kelly,

Grant Officer, Employment and Training Administration.

[FR Doc. 2013–03092 Filed 2–11–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 22, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 22, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

14 TAA PETITIONS INSTITUTED BETWEEN 1/21/13 AND 1/25/13

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82356	Mount Hope (Company)	Charlotte, NC	01/22/13	01/18/13
82357	American Airlines (Workers)	Tulsa, OK	01/22/13	01/16/13
82358	YP Holdings LLC (Workers)	San Francisco, CA	01/22/13	01/17/13
82359	American Silk Mills LLC (Company)	Plains, PA	01/22/13	01/18/13
82360	Innovative Arc Tubes Corp (State/One-Stop)	Bridgeport, CT	01/23/13	12/31/12
82361	GE Industrial of PR LLC (Company)	San German, PR	01/23/13	01/22/13
82362	Hewlett-Packard Company (Company)	Corvallis, OR	01/24/13	01/23/13
82363	Sea Change International (State/One-Stop)	Acton, MA	01/24/13	01/23/13
82364	Atmel Corporation (State/One-Stop)	Colorado Springs, CO	01/24/13	01/22/13

14 TAA PETITIONS INSTITUTED BETWEEN 1/21/13 AND 1/25/13—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82365	(Workers)	Tulsa, OK	01/24/13	01/22/13
82366	Hostess Brands (Workers)	Mansfield, OH	01/24/13	01/02/13
82367	Athena Health (Workers)	Birmingham, AL	01/25/13	01/24/13
82368	Imation Corporation (State/One-Stop)	Oakdale, MN	01/25/13	01/24/13
82369	Energizer Battery (Company)	Maryville, MO	01/25/13	01/17/13

[FR Doc. 2013–03095 Filed 2–11–13; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until April 15, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOMail@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is renewing the currently approved collection for 3133–0185. The collection includes the NCUA Vendor Registration Form (NCUA 1772) and instructions for completing the form. Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (The ''Dodd-Frank Act'') calls for NCUA (the ''Agency'') to promote the inclusion of minority-owned and women-owned firms in the Agency's business activities. The Dodd-Frank Act also requires NCUA to annually report to Congress the total amounts paid to minority- and women-owned businesses. In order to comply with this Congressional mandate, NCUA needs to collect certain information from its current and potential vendors, so that it can identify businesses that meet the criteria that must be reported to Congress. Without the use of the vendor registration form, NCUA would not be able to capture the type of information that Congress is requiring under the Dodd-Frank Act. The section within the Dodd-Frank Act that makes it necessary to collect this information is as follows: Section 342(e)(2) Reports—Each office shall submit to Congress an annual report regarding the actions taken by the agency and the Office pursuant to this section, which shall include—the percentage of the amounts described in paragraph (1) that were paid to contractors described in subsection (c)(1) [minority-owned and women-owned businesses]. The vendor information is to be submitted to the agency on a one-time basis through a one-page vendor form. The one-page form is brief and asks for simple, readily available information. Additionally, NCUA plans to make this registration available electronically in a format that allows vendors to complete and submit online, without requiring any printing, manual entries, or faxing. The information provided will be used to assign an ownership status to the vendor (i.e., minority-owned business, woman-owned business) per the requirements of the Act. Once an ownership status is assigned to each vendor, NCUA will be able to calculate the total amounts of contracting dollars paid to minority-owned and women-owned businesses. There is no change in burden hours or cost from NCUA's last submission.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review. 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.

II. Data

Proposal for the following collection of information:

OMB Number: 3133–0185.

Form Number: NCUA 1772.

Type of Review: Revision to the currently approved collection.

Title: NCUA Vendor Registration Form.

Description: Current and potential vendors complete a one-page registration form. The form asks for basic information from vendors interested in doing business with the agency. This information allows NCUA to provide Congress with required reports on contracts with minority-owned and women-owned firms.

Respondents: Current and potential vendors.

Estimated No. of Respondents/Recordkeepers: 1000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: Once.

Estimated Total Annual Burden Hours: 167 hours.

Estimated Total Annual Cost: $3,500.

By the National Credit Union Administration Board on ___February 6, 2013___.

Mary Rupp,

Secretary of the Board.

[FR Doc. 2013–03179 Filed 2–11–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Sunshine Act Meeting of the National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), NFAH.

ACTION: Notice of Meeting.

SUMMARY: The National Museum and Library Services Board, which advises the Director of the Institute of Museum and Library Services in awarding national awards and medals, will meet by teleconference on February 14, 2013, to review nominations for the 2013 National Medal for Museum and Library Service.

DATE AND TIME: Thursday, February 14, 2013, at 1 p.m. EST.

PLACE: The meeting will be held by teleconference originating at the Institute of Museum and Library Services. 1800 M Street, NW., 9th Floor, Washington, DC, 20036. Telephone: (202) 653–4676.

STATUS: Closed. The meeting will be closed pursuant to subsections (c)(4) and (c)(9) of section 552b of Title 5, United States Code because the Board will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; and information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lyons, Program Coordinator for Special Events and Board Liaison, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036. Telephone: (202) 653–4676.

Dated: February 5, 2013.

Nancy Weiss,

General Counsel.

[FR Doc. 2013–02957 Filed 2–11–13; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Innovation Corps; 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: Innovation Corps Advisory Committee, #80463

Dates/Time: March 6, 2013, 9:00 a.m.–4:00 p.m.

Places: Sheraton Pentagon City Hotel, 900 South Orme Street, Arlington, VA 22204

Type of Meeting: Open

Contact Person: Dr. Dedric A. Carter, Senior Advisor for Strategic Initiatives, Office of the Director, Suite 1205, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Telephone Number: (703) 292–8002 *dacarter@nsf.gov*

Purpose of Meeting: To provide advice and recommendations concerning I-Corps.

Agenda: Opening Statements by Dr. Subra Suresh, Director, NSF Review and discussion the current I-Corps projects and future directions.

Reason for Closing: The program being reviewed includes 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 (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: February 7, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–03163 Filed 2–11–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8943–MLA–2; ASLBP No. 13–926–01–MLA–BD01]

Crow Butte Resources, Inc.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission=s regulations, *see* 10 CFR 2.105, 2.300, 2.303, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Crow Butte Resources, Inc.

(Marsland Expansion Area)

This proceeding involves a request from Crow Butte Resources, Inc. to amend its Source Material License, SUA–1534, to obtain authority to construct and operate an *in situ* uranium recovery satellite facility at its Marsland site in Dawes County, Nebraska. In response to a ''Notice of Opportunity for a Hearing'' published in the **Federal Register**, *see* 77 Fed. Reg. 71,454 (Nov. 30, 2012), hearing requests were filed on January 29, 2013 by (1) the Oglala Sioux Tribe, and (2) a consolidated group of petitioners comprised of Antonia Loretta Afraid of Bear Cook, Bruce McIntosh, Debra White Plume, Western Nebraska Resources Council, and Aligning for Responsible Mining.

The Board is comprised of the following administrative judges:

G. Paul Bollwerk, III, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Dr. Richard E. Wardwell, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Dr. Thomas J. Hirons, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139). *See* 10 CFR 2.302.

Dated: Rockville, Maryland, February 6, 2013.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2013–03184 Filed 2–11–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0023]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene, order.

DATES: Submit comments by March 14, 2013. Requests for a hearing or leave to intervene must be filed by April 15,

2013. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by February 22, 2013.

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–2013–0023. 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–2013–0023. 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.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0023 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–2013–0023.
- *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.

B. Submitting Comments

Please include Docket ID NRC–2013–0023 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 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 enter 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

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to

intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be issued in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site.

Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-

Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of amendment request: October 26, 2012. A publicly available version is in ADAMS under Accession No. ML12306A519.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would delete paragraph 2.C.(32), Partial Feedwater Heating, of the GGNS facility operating license to allow GGNS to operate with the Final Feedwater Temperature Reduction (FFWTR) at the end of a fuel cycle for the purpose of extending the cycle. The FFWTR flexibility option would allow operating with a reduction of 100 degrees Fahrenheit (°F) in the feedwater temperature at rated thermal power conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The effect of operating with Final Feedwater Temperature Reduction (FFWTR) on the probability and consequences of accidents, Anticipated Operational Occurrences (AOO), and events documented in the Updated Final Safety Analysis (UFSAR) was reviewed.

The impact of FFWTR on the Design Basis Accident (DBA) Loss-of-Coolant Accident (LOCA) was considered. Evaluations and analyses determined that the current licensing basis peak cladding temperature (PCT) of the fuel remains applicable for operating the Grand Gulf Nuclear Station (GGNS) with FFWTR. The analysis results indicate the following:

- The calculated maximum fuel element cladding temperature does not exceed 2,200 °F.
- The calculated total local oxidation does not exceed 17% times the total cladding thickness.
- The calculated total amount of hydrogen generated from a chemical reaction of the cladding with water or steam is less than 1% times the hypothetical amount if all the metal in the cladding cylinder were to react.
- The core remains amenable to long term cooling, and there is sufficient long term core cooling available.

Analysis also demonstrated that FFWTR operation at GGNS continues to meet design limits for the DBA–LOCA peak drywell pressure and temperature. Therefore, there is no increase in the consequence of an accident previously evaluated in the UFSAR.

The only AOO that requires consideration in assessing the effect of FFWTR on event consequences is the feedwater controller failure—increasing flow (FWCF). This is based upon the finding that the other AOOs are less sensitive to a reduction in feedwater temperature. The rated power and off-rated Power Distribution Limits, Critical Power Ratio (CPR), and Linear Heat Generation Rate (LHGR), for the FWCF event are validated on a cycle-specific basis to ensure compliance with: (1) the Safety Limit Minimum Critical Power Ratio (SLMCPR) and (2) the fuel rod thermal mechanical acceptance criteria of avoiding fuel centerline melt and 1% cladding plastic strain. Consequently, there is no increase in the consequences of an AOO previously evaluated.

The impact of FFWTR on the consequences of the following events was also considered: Anticipated Transient without Scram (ATWS), vessel overpressure, thermal-hydraulic stability, and High Energy Line Break (HELB). The evaluation of ATWS and vessel overpressure concluded the consequences of the events at normal feedwater temperature remain bounding for

FFWTR. The evaluation of HELB determined the impact was bounded by the current design basis. The cycle-specific determinations and validations performed in accordance with NRC-approved methods ensure that the SLMCPR will be protected if a thermal-hydraulic instability event were to occur. Therefore, there is no increase in the consequence of these events previously evaluated in the UFSAR.

In addition, the following areas were also evaluated. The reactor power level and operating pressure are not changed. FFWTR has no effect on the decay heat. Current design limits associated with long-term containment analyses, including a recirculation suction line break (RSLB), loss of offsite power (LOOP), intermediate break accident (IBA), small break accident (SBA), and NUREG–0783 safety/relief valve (SRV) steam discharge events continue to be supported without change. Therefore, there is no increase in the consequence of these events previously evaluated in the UFSAR.

The probability of an accident is not affected by the proposed changes since no structures, systems or components (SSC) that could initiate an accident are affected. Therefore, the proposed changes do not significantly increase the probability of any previously evaluated accident.

Based on the above discussion, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the design function of any SSC. The implementation of FFWTR operation does not create the possibility of a new or different kind of accident. Power Distribution Limits for CPR, LHGR and Average Planar Linear Heat Generation Rate (APLHGR), and OPRM setpoints, which are determined in accordance with NRC-approved methods and are included in the Core Operating Limits Report (COLR) as part of the normal reload licensing process, continue to assure that core operation is in accordance with the conditions currently assumed for event initiation.

FFWTR was reviewed against the accidents, AOOs, and events documented in the UFSAR. This review determined there is no adverse impact; the existing design basis remains bounding. In addition, the proposed change does not involve new system interactions or equipment modifications to the plant. FFWTR does not involve any new type of testing or maintenance. Therefore, there are no new design basis failure mechanisms, malfunctions, or accident initiators created by the proposed change.

The existing low power scram bypass setpoint based on turbine first stage pressure and the calculated change in steam flow was evaluated. The current setpoint is based on operating with a 100 °F reduction in feedwater temperature; therefore, the setpoint is unaffected by FFWTR.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The AOOs and accidents described in the UFSAR were evaluated for effects caused by the reduced feedwater temperature. For cycle-independent considerations, the evaluations determined that the consequences of the events are either: (1) bounded by the current design and licensing basis results; (2) are within design acceptance criteria; or (3) do not change in a manner that would reduce the margin of safety. For cycle-specific considerations, cycle-specific analyses utilizing NRC-approved methods that produce the values of the limits documented in the COLR continue to assure that core operation is maintained within the existing design basis and safety limits. No design basis or safety limit is altered by the proposed change.

The existing low power scram bypass setpoint based on turbine first stage pressure and the calculated change in steam flow was evaluated. The current setpoint is based on operating with a 100 °F reduction in feedwater temperature; therefore, the setpoint is unaffected by FFWTR.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Michael T. Markley.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2)

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 6th day of February 2013.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/Activity
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2013–03201 Filed 2–11–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0001]

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission

DATE: Weeks of February 11, 18, 25, March 4, 11, 18, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS : Public and Closed.

Week of February 11, 2013

There are no meetings scheduled for the week of February 11, 2013.

Week of February 18, 2013—Tentative

Wednesday, February 20, 2013

1:00 p.m. Briefing on Uranium Recovery (Public Meeting); (Contact: Bill von Till, 301–415–0598).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Thursday, February 21, 2013

9:30 a.m. Briefing on the Threat Environment Assessment (Closed—Ex. 1)

Week of February 25, 2013—Tentative

There are no meetings scheduled for the week of February 25, 2013.

Week of March 4, 2013—Tentative

There are no meetings scheduled for the week of March 4, 2013.

Week of March 11, 2013—Tentative

There are no meetings scheduled for the week of March 11, 2013.

Week of March 18, 2013—Tentative

There are no meetings scheduled for the week of March 18, 2013.

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

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 Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@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: February 7, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–03303 Filed 2–8–13; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from December 1, 2012, to December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Resources and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/.* OPM also publishes annually a consolidated listing of all Schedule A, B, and C appointing authorities current as of June 30 as a notice in the **Federal Register**.

Schedule A

The following Schedule A authority was approved in December.

Section 213.3106 Department of Defense

(b) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—

(11) Not to exceed 3000 positions that require unique cyber security skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS–0080), intelligence analysts (GS–0132), computer engineers (GS–0854), electronic engineers (GS–0855), computer scientists (GS–1550), operations research (GS–1515), criminal investigators (GS–1811), telecommunications (GS–0391), and IT specialists (GS–2210). Within the scope of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS–0301) series when those positions require unique cyber security skills and knowledge. All positions will be at the General Schedule (GS) grade levels 09–15 or equivalent. No new appointments may be made under this authority after December 31, 2013.

Schedule B

No Schedule B authorities were approved in December 2012.

Schedule C

The following Schedule C appointing authorities were approved during December 2012.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF COMMERCE ..	Assistant Secretary and Director General for United States and Foreign Commercial Service.	Special Assistant	DC130015	12/13/2012
DEPARTMENT OF DEFENSE	Office of Assistant Secretary of Defense (Reserve Affairs).	Special Assistant (Reserve Affairs)	DD130022	12/12/2012
	Office of the Assistant Secretary of Defense (Asian and Pacific Security Affairs).	Special Assistant	DD130023	12/12/2012
	Office of the Assistant Secretary of Defense (International Security Affairs).	Special Assistant for International Security Affairs.	DD130027	12/18/2012
DEPARTMENT OF HOMELAND SECURITY.	U.S. Customs and Border Protection.	Special Advisor	DM130024	12/12/2012
DEPARTMENT OF STATE	Office of the Chief of Protocol	Public Affairs Specialist	DS130020	12/3/2012
DEPARTMENT OF TRANSPORTATION.	Secretary	Special Assistant for Scheduling and Advance.	DT130008	12/10/2012

The following Schedule C appointing authorities were revoked during December 2012.

Agency	Organization	Position title	Authorization No.	Vacate date
DEPARTMENT OF COMMERCE ..	Office of the Under Secretary	Deputy Chief of Staff For USPTO	DC110109	12/7/12
	Office of Legislative and Intergovernmental Affairs.	Legislative Assistant	DC120015	12/15/12
	Office of Public Affairs	Confidential Assistant	DC120082	12/29/12
DEPARTMENT OF EDUCATION ..	Office for Civil Rights	Special Assistant	DB100012	12/1/12
	Office of Elementary and Secondary Education.	Deputy Assistant Secretary for Policy and Early Learning.	DB120060	12/7/12
	Office of the Secretary	Special Assistant	DB090169	12/31/12
	Office of the Under Secretary	Director, White House Initiative on Educational Excellence for Hispanic Americans.	DB120027	12/31/12
DEPARTMENT OF ENERGY	Office of the Under Secretary	Senior Advisor	DE110034	12/3/12
	Office of Public Affairs	Press Secretary	DE120022	12/3/12
DEPARTMENT OF HOMELAND SECURITY.	Office of the Assistant Secretary for Policy.	Executive Assistant	DM120066	12/31/12
DEPARTMENT OF JUSTICE	Civil Rights Division	Counsel	DJ110103	12/1/12
	Office of the Deputy Attorney General.	Counsel	DJ110025	12/2/12
	Antitrust Division	Counsel	DJ100105	12/3/12
DEPARTMENT OF STATE	Office of the Chief of Protocol	Protocol Officer (Visits)	DS110100	12/14/12
DEPARTMENT OF TRANSPORTATION.	Assistant Secretary for Governmental Affairs.	Associate Director for Governmental Affairs.	DT110046	12/14/12
	Secretary	Advance Specialist	DT120027	12/15/12
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Administrator	Policy Analyst	EP110022	12/1/12
OFFICE OF THE SECRETARY OF DEFENSE.	Office of the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict and Interdependent Capabilities).	Special Assistant	DD090172	12/1/12

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2013–03144 Filed 2–11–13; 8:45 am]

BILLING CODE 6325–29–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, February 14, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain

staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: February 7, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–03254 Filed 2–8–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68844; File No. SR–CBOE–2013–007]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Opening of the Complex Order Book

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder, which renders it effective upon filing with the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its electronic complex order rules. The text of the proposed rule change is available on the Exchange's Web site (*www.cboe.org/Legal*), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to include a description in Rule 6.53C of the manner in which complex orders are currently electronically processed through the Exchange's complex order book (''COB'') when the COB opens for trading. Currently the rule does not include this level of detail, so the Exchange is proposing to include this information within the rule to provide additional clarity on the current operation of the COB. The Exchange notes that it is simply including additional detail in its rules on the existing process when the COB opens in response to Trading Permit Holder inquiries about its operation. No changes to the process are being contemplated by this rule change filing.

In particular, the proposed rule change will provide that complex orders, including stock-option orders, do not participate in opening rotations conducted pursuant to Rule 6.2B for individual option series.[5] When the last of the individual component option series legs that make up a complex order strategy has opened (and, in the case of a stock-option strategy, when the underlying stock has opened), the COB for that strategy will then open for trading. The COB for a given complex order strategy will open with no trade,[6] except as follows:

First, the COB will open with a trade against the individual component option series legs if there are complex orders on only one side of the COB that are marketable against the opposite side of the derived net market. The resulting execution will occur at the derived net market price to the extent marketable. Any remaining balance would be processed as it would on an intra-day basis as set forth in Rule 6.53C (including being subject to the applicable complex order priority and price check parameter provisions set forth in Rule 6.53C). This provision for ''legging'' against the individual series legs is not applicable to stock-option order strategies. (Stock-option orders processed through COB generally only trade against other stock-option orders. Stock-option orders processed through COB generally do not trade against individual component option series legs, except in one limited circumstance

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange notes that, previously, Rule 6.2B had provided that spread orders (a general reference used to refer to complex orders) do not participate in the Hybrid Opening System (''HOSS'') opening trade for individual component option series legs or in the determination of the opening price, expected opening price or expected opening size for an individual component options series leg. This provision was eliminated from Rule 6.2B in 2010 and, as revised, the Exchange could determine whether to designate various complex order types as eligible for HOSS on a class-by-class basis (just as it would for any other order type). *See* Securities Exchange Act Release No. 63580 (December 20, 2010), 75 FR 81705 (December 28, 2010) (SR–CBOE–2010–114). To date, the Exchange has not determined to include spread orders/complex orders in the Rule 6.2B opening process. With this proposed rule change, SR–CBOE–2013–007, the Exchange would no longer be permitted to designate complex order (including stock-option order) order types as eligible for the Rule 6.2B opening process. If, in the future, the Exchange would desire to designate certain complex order (including stock-option order) order types as being eligible to participate in the HOSS opening process for simple orders, such a determination would be subject to a separate rule change filing.

[6] For example, the COB would open with no trade if there are no complex orders resting for the strategy or if there are complex orders on only one side of the COB at a net price(s) that does not touch or cross the derived net market. The ''derived net market'' for a stock-option order strategy will be calculated using the Exchange's best bid or offer in the individual option series leg(s) and the NBBO in the stock leg. The ''derived net market'' for any other complex order strategy will be calculated using the Exchange's best bid or offer in the individual series legs.

for market orders at the conclusion of a complex order RFQ auction (''COA'').[7])

For example, if the derived net market for a given complex order strategy is $1.00–$1.20 for 100 units and the only interest in the COB is a complex order to buy the strategy at a net debit price of $1.21 for 120 units, then 100 units of the complex order would trade at a net price of $1.20 against the individual component series legs and the remaining 20 units of the complex order would be subject to processing under Rule 6.53C (*e.g.,* remain in the COB if not marketable against the individual orders and quotes in the electronic book or other complex orders in the COB, execute or route for manual processing if marketable subject the applicable priority and price check parameters).

Second, the COB will open with a trade against complex orders if there are complex orders on both sides of the COB that are marketable against each other and that are priced within the derived net market. The resulting execution will occur at a market clearing price that is inside the derived net market and that matches complex orders to the extent marketable. In determining the priority, the COB gives priority to complex orders whose net price is better than the market clearing price first, and then to complex orders at the market clearing price.[8] This provision for complex orders to trade against each other is applicable to stock-option order strategies.

For example, assume the derived net market for a given complex order strategy is $1.00–$1.20 for 100 units and there is a complex order in the COB to sell the strategy at a net credit price of $1.19 for 20 units, a complex order in the COB to sell the strategy at a net credit price of $1.18 for 10 units, and a complex order in COB to buy the strategy at a net debit price of $1.19 for 50 units. When the COB opens, 30 units of the buy strategy would trade at a net price of $1.19 against the two sell strategies. The remaining 20 units of the buy strategy would be subject to processing under Rule 6.53C (*e.g.,* remain in the COB if not marketable against the individual orders and quotes in the electronic book or other complex orders in the COB, execute or route for manual processing if marketable subject the applicable priority and price check parameters).

As another example, if the derived net market for a given stock-option order strategy is $5.00–$5.20 for 100 units and there is a stock-option order in the COB to sell the strategy at a net credit price of $5.19 for 20 units, a stock-option order in the COB to sell the strategy at a net credit price of $5.18 for 10 units, and a stock-option order in COB to buy the strategy at a net debit price of $5.19 for 50 units, then 30 units of the buy strategy would trade at a net price of $5.19 against the two sell strategies. The remaining 20 units of the buy strategy would be subject to processing under Rule 6.53C (*e.g.,* remain in the COB if not marketable against the derived net market (considering the individual orders and quotes in the electronic book for the component options series legs and the NBBO in the stock leg) or other stock-option orders in the COB, or execute or route for manual processing if marketable subject the applicable priority and price check parameters).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5) of the Act[10] in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In particular, the Exchange believes that including detail within the rules should provide additional clarity and avoid any confusion on the current operation of the COB open. The Exchange also believes that the operation of the COB increases opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in the trading of complex orders. This participation may promote liquidity and result in better prices for customers throughout the trading day, including when the COB opens.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the Exchange believes that including detail within the rules should provide additional clarity and avoid any confusion on the current operation of the COB open. The Exchange also believes that the operation of the COB increases opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in the trading of complex orders. This participation may promote liquidity and result in better prices for customers throughout the trading day, including when the COB opens.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2013–007 on the subject line.

[7] *See* Rule 6.53C.06.

[8] This ''market clearing price'' process for executing complex orders when the COB opens is similar to the process for executing simple orders when HOSS opens an individual component options series. *See* Rule 6.2B(c)(iv) (''[t]he opening price of a series is the 'market-clearing' price that will leave bids and offers which cannot trade with each other. In determining the priority of orders and quotes to be traded, the System gives priority to market orders first, then to limit orders and quotes whose price is better than the opening price, and then to resting orders and quotes at the opening price.'')

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–007 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03103 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68851; File No. SR–BATS–2013–009]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Program Related to Trading Pauses Due to Extraordinary Market Volatility

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2013, BATS Exchange, Inc. (''BATS'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,4 which renders it effective upon filing with 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

The Exchange is proposing to extend a pilot program previously approved by the Commission related to Rule 11.18, entitled ''Trading Halts Due to Extraordinary Market Volatility.''

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the effectiveness of the Exchange's rule related to individual stock circuit breakers, which is contained in Rule 11.18(d) and Interpretation and Policy .05 to Rule 11.18. The rule, explained in further detail below, is currently operating as a pilot program set to expire on February 4, 2013.

On June 10, 2010, the Commission approved on a pilot basis changes to BATS Rule 11.18 to provide for uniform market-wide trading pause standards for individual securities in the S&P 500® Index that experience rapid price movement.[5] Later, the Exchange and other markets proposed extension of the trading pause standards on a pilot basis to individual securities in the Russell 1000® Index and specified Exchange Traded Products, which changes the Commission approved on September 10, 2010.[6] More recently, the Exchange proposed expansion of the pilot program to apply to all NMS stocks.[7] This expansion was approved on June 23, 2011.[8] The pilot program relating to trading pause standards has been extended five times since its inception.[9] The Exchange believes the benefits to market participants from the individual stock trading pause rule should be continued on a pilot basis until individual stocks become, on a rolling basis, subject to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS

[5] Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BATS–2010–014).

[6] Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (SR–BATS–2010–018).

[7] Securities Exchange Act Release No. 64435 (May 6, 2011), 76 FR 27684 (May 12, 2011) (SR–BATS–2011–016).

[8] Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex-2011–32; SR–NYSEArca-2011–26; SR–NSX–2011–06; SR–Phlx–2011–64).

[9] Securities Exchange Act Release No. 63497 (December 9, 2010), 75 FR 78315 (December 15, 2010) (SR–BATS–2010–037); Securities Exchange Act Release No. 64207 (April 6, 2011), 76 FR 20424 (April 12, 2011) (SR–BATS–2011–011); Securities Exchange Act Release No. 65081 (August 9, 2011), 76 FR 50798 (August 16, 2011) (SR–BATS–2011–027); Securities Exchange Act Release No. 66190 (January 19, 2012), 77 FR 3834 (January 25, 2012) (SR–BATS–2012–001); Securities Exchange Act Release No. 67520 (July 27, 2012), 77 FR 46129 (August 2, 2012) (SR–BATS–2012–031).

under the Act (the ''Limit Up-Limit Down Plan'' or ''Plan'').[10]

The Exchange, in conjunction with other national securities exchanges and FINRA, recently filed an amendment to the Plan to change the date of initial operations of the Plan from February 4, 2013 to April 8, 2013. The extension proposed herein would allow the pilot to continue to operate without interruption until implementation of the Limit Up-Limit Down Plan, which will occur on a rolling basis.

The Exchange proposes to extend the effective date of the pilot from the current scheduled expiration date of February 4, 2013 until February 4, 2014. The Exchange also proposes to modify the definition of ''Circuit Breaker Securities'' subject to the individual stock circuit breaker pilot to mean all NMS stocks other than NMS stocks subject to the Limit Up-Limit Down Plan. Accordingly, as securities become subject to the Limit Up-Limit Down Plan, they will no longer be Circuit Breaker Securities subject to the individual stock trading pause pilot.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[11] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[12] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule change is also consistent with Section 11A(a)(1) of the Act [13] in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the pilot program promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements. The Exchange believes that the pilot program is working well, that it has been infrequently invoked during the previous months, and that the extension of the pilot will allow the Exchange to further assess the effect of the pilot on the market until securities become subject to the Limit Up-Limit Down Plan on a rolling basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to extend the operation of the trading pause pilot to allow the pilot to continue to operate without interruption until implementation of the Limit Up-Limit Down Plan, which contributes to the protection of investors and the public interest. Other competing equity exchanges are subject to the same trading pause requirements specified in the Plan. Thus, the proposed changes will not impose any burden on competition while providing trading pause requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing. [18]

At any time within 60 days of the filing of such 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–BATS–2013–009 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–BATS–2013–009. 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

[10] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release'').

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78k–1(a)(1).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 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).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BATS–2013–009 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03186 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68839; File No. SR–NASDAQ–2013–014]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Routing Functionality to the NASDAQ System

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on January 23, 2013, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') 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 Nasdaq. 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

Nasdaq proposes to amend Rule 4758, Order Routing, to add routing functionality to the NASDAQ System (''System'').

The text of the proposed rule change is below. Proposed new language is italicized.

* * * * *

Equity Rules

* * * * *

4750. Execution Services

* * * * *

4758. Order Routing

(a) Order Routing Process

(1) No change.

(A) No change.

(i)–(xi) No change.

(xii) QDRK is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

(xiii) QCST is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS and to certain, but not all, exchanges. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

Orders that do not check the System for available shares prior to routing may not be sent to a facility of an exchange that is an affiliate of Nasdaq, except for orders that are sent to the NASDAQ OMX BX Equities Market or to the NASDAQ OMX PSX facility of NASDAQ OMX PHLX.

(B) No change.

(b)–(d) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to attract additional business to and enhance the functionality offered by Nasdaq by providing additional optional outbound routing services. Most equities exchanges today provide routing services and the Exchange offers a variety of routing strategies. Currently, Rule 4758, Order Routing, describes the order routing process and states that all routing shall be in compliance with Rule 611 of Regulation NMS under the Act.[3] Furthermore, it enumerates Nasdaq's routing strategies: DOT, DOTI, STGY, SKNY, SCAN, SKIP, TFTY, MOPP, SAVE, SOLV, LIST and CART.

Proposed Rule 4758(a)(1)(A)(xii) will provide that QDRK is a routing option under which orders check the System for available shares and simultaneously route to certain destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS (i.e. ''dark venues'' or ''dark pools''). If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. This strategy is intended to attract market participants that seek to execute on Nasdaq or on dark pools without executing on another exchange. Members may seek to execute in this manner to interact with resting liquidity in addition to that available on Nasdaq, while also minimizing market impact and transaction fees.

For example, if the National Best Bid/Offer (''NBBO'') is $10.00–$10.01, and Nasdaq, DarkVenueA and ARCA each offer 100 shares at $10.01, a QDRK order to buy 1000 shares at $10.01 IOC will be handled as follows: 100 shares for execution on Nasdaq and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining 800 shares are not routed and not executed, and cancelled back to the entering participant because it was an IOC order. The order did not route to ARCA because it is not a dark venue. As a second example, if the NBBO is $10.00–$10.01, and Nasdaq, DarkVenueA and ARCA each offer 100 shares at $10.01, a QDRK order to buy 1000 shares at

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.611.

$10.01 DAY will be handled as follows: 100 shares for execution on Nasdaq and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining 800 shares are posted on the Nasdaq book (because it is a DAY order). Once again, the order did not route to ARCA because it is not a dark venue.

Proposed Rule 4758(a)(1)(A)(xiii) will provide that QCST is a routing option under which orders check the System for available shares and simultaneously route to select dark venues and to certain low cost exchanges. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. This strategy is also intended to attract market participants who seek to save on trading fees by only executing on the Exchange, on dark venues, or on no cost and low cost exchanges.

For example, if the NBBO is $10.00–$10.01, and Nasdaq, DarkVenueA and ARCA each offer 100 shares at $10.01, a QCST order to buy 1000 shares at $10.01 DAY will be handled as follows: 100 shares for execution on Nasdaq and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining 800 shares are posted on the Nasdaq book (because it is a DAY order). The order did not route to ARCA because it is neither a dark venue nor a no cost or low cost exchange. As a second example, if the NBBO is $9.90–$10.00, with BYX offering 100 shares at $10.00 and Nasdaq, DarkVenueA and ARCA each offer 100 shares at $10.01, a QCST order to buy 1000 shares at $10.01 DAY will be handled as follows: 100 shares routed to BYX at $10.00, 100 shares for execution on Nasdaq and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining shares are posted on the Nasdaq book (because it is a DAY order). The order did not route to ARCA because it is neither a dark venue nor a no cost or low cost exchange.

In all cases, these routing strategies are designed to comply with SEC Rule 611 and the other provisions of Regulation NMS.[4] Accordingly, both QDRK and QCST will honor Protected Quotations within the meaning of Regulation NMS and will not route to any market centers included in their respective routing table at a price inferior to an available Protected Quotation. For example, if the NBBO is $9.90–$10.00, with NYSE offering 100 shares at $10.00 and Nasdaq, DarkVenueA and ARCA each offering 100 shares at $10.01, a QCST order to buy 1000 shares at $10.01 DAY will not be routed because NYSE's Protected Quotation is not included in the routing table, by definition, for QCST.

The Exchange will notify its membership of the implementation date, which the Exchange expects will be on or about the 30th day after this filing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(5) of the Act,[6] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, because Nasdaq will be better able to serve its customers and compete with other markets by offering additional optional routing services. Specifically, the two new routing strategies will provide market participants with greater flexibility in routing orders without developing order routing strategies on their own.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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, as amended. Nasdaq competes with many exchanges and other execution venues for the execution of orders in equities. Market participants can choose where to send their orders. Accordingly, the proposal is pro-competitive in that it affords the Exchange the opportunity to compete with other exchanges in terms of offering new routing strategies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or 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 subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of such 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. The Exchange has provided 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.

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–NASDAQ–2013–014 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–NASDAQ–2013–014.* 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

[4] 17 CFR 242.611.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–NASDAQ–2013–014* and should be submitted on orbefore March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03098 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68843; File No. SR–C2–2013–003]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Opening of the Complex Order Book

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2013, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder, which renders it effective upon filing with the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its complex order rules. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/RuleFilings.aspx*), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to include a description in Rule 6.13 of the manner in which complex orders are currently processed through the Exchange's complex order book (''COB'') when the COB opens for trading. Currently the rule does not include this level of detail, so the Exchange is proposing to include this information within the rule to provide additional clarity on the current operation of the COB in response to Trading Permit Holder inquiries about its operation. The Exchange notes that it is simply including additional detail in its rules on the existing process when the COB opens. No changes to the process are being contemplated by this rule change filing.

In particular, the proposed rule change will provide that complex orders, including stock-option orders, do not participate in opening rotations conducted pursuant to Rule 6.11 for individual option series.[5] When the last of the individual component option series legs that make up a complex order strategy has opened (and, in the case of a stock-option strategy, when the underlying stock has opened), the COB for that strategy will then open for trading. The COB for a given complex order strategy will open with no trade,[6] except as follows:

First, the COB will open with a trade against the individual component option series legs if there are complex orders on only one side of the COB that are marketable against the opposite side of the derived net market. The resulting execution will occur at the derived net market price to the extent marketable. Any remaining balance would be processed as it would on an intra-day basis as set forth in Rule 6.13 (including being subject to the applicable complex order priority and price check parameter provisions set forth in Rule 6.13). This provision for ''legging'' against the individual series legs is not applicable to stock-option order strategies. (Stock-option orders processed through COB generally only trade against other stock-option orders. Stock-option orders processed through COB generally do not trade against individual component option series legs, except in one limited circumstance for market orders at the conclusion of a complex order RFQ auction (''COA'').[7])

For example, if the derived net market for a given complex order strategy is $1.00–$1.20 for 100 units and the only interest in the COB is a complex order to buy the strategy at a net debit price

[5] The Exchange notes that, under the current provisions of Rule 6.11, the Exchange could determine whether to designate various complex order types as eligible for the Rule 6.11 opening process on a class-by-class basis (just as it would for any other order type). *See* Rule 6.11(a)(1). To date, the Exchange has not determined to include complex orders (including stock-option orders) in the Rule 6.11 opening process (this process has instead been limited to simple orders). With this proposed rule change, SR–C2–2013–003, the Exchange would no longer be permitted to designate complex order (including stock-option order) order types as eligible for the Rule 6.11 opening process. If, in the future, the Exchange would desire to designate certain complex order (including stock-option order) order types as being eligible to participate in the Rule 6.11 opening process, such a determination would be subject to a separate rule change filing.

[6] For example, the COB would move to an open state with no trade if there are no complex orders resting for the strategy or if there are complex orders on only one side of the COB at a net price(s) that does not touch or cross the derived net market. The ''derived net market'' for a stock-option order strategy will be calculated using the Exchange's best bid or offer in the individual option series leg(s) and the NBBO in the stock leg. The ''derived net market'' for any other complex order strategy will be calculated using the Exchange's best bid or offer in the individual series legs.

[7] *See* Rule 6.13.06.

of $1.21 for 120 units, then 100 units of the complex order would trade at a net price of $1.20 against the individual component series legs and the remaining 20 units of the complex order would be subject to processing under Rule 6.13 (*e.g.,* remain in the COB if not marketable against the individual orders and quotes in the electronic book or other complex orders in the COB, execute or cancel if marketable subject the applicable priority and price check parameters).

Second, the COB will open with a trade against complex orders if there are complex orders on both sides of the COB that are marketable against each other and that are priced within the derived net market. The resulting execution will occur at a market clearing price that is inside the derived net market and that matches complex orders to the extent marketable. In determining the priority, the COB gives priority to complex orders whose net price is better than the market clearing price first, and then to complex orders at the market clearing price.[8] This provision for complex orders to trade against each other is applicable to stock-option order strategies.

For example, assume the derived net market for a given complex order strategy is $1.00–$1.20 for 100 units and there is a complex order in the COB to *sell* the strategy at a net credit price of $1.19 for 20 units, a complex order in the COB to *sell* the strategy at a net credit price of $1.18 for 10 units, and a complex order in COB to *buy* the strategy at a net debit price of $1.19 for 50 units. When the COB opens, 30 units of the buy strategy would trade at a net price of $1.19 against the two sell strategies. The remaining 20 units of the buy strategy would be subject to processing under Rule 6.13 (*e.g.,* remain in the COB if not marketable against the individual orders and quotes in the electronic book or other complex orders in the COB, execute or cancel if marketable subject the applicable priority and price check parameters).

As another example, if the derived net market for a given stock-option order strategy is $5.00—$5.20 for 100 units and there is a stock-option order in the COB to sell the strategy at a net credit price of $5.19 for 20 units, a stock-option order in the COB to sell the strategy at a net credit price of $5.18 for 10 units, and a stock-option order in COB to buy the strategy at a net debit price of $5.19 for 50 units, then 30 units of the buy strategy would trade at a net price of $5.19 against the two sell strategies. The remaining 20 units of the buy strategy would be subject to processing under Rule 6.13 (*e.g.,* remain in the COB if not marketable against the derived net market (considering the individual orders and quotes in the electronic book for the component options series legs and the NBBO in the stock leg) or other stock-option orders in the COB, or execute or route for manual processing if marketable subject the applicable priority and price check parameters).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5) of the Act[10] in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In particular, the Exchange believes that including detail within the rules should provide additional clarity and avoid any confusion on the current operation of the COB open. The Exchange also believes that the operation of the COB increases opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in the trading of complex orders. This participation may promote liquidity and result in better prices for customers throughout the trading day, including when the COB opens.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the Exchange believes that including detail within the rules should provide additional clarity and avoid any confusion on the current operation of the COB open. The Exchange also believes that the operation of the COB increases opportunities for all types of market participants (*e.g.,* public customers, broker-dealers and market-makers) to participate in the trading of complex orders. This participation may promote liquidity and result in better prices for customers throughout the trading day, including when the COB opens.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

At any time within 60 days of the filing of such 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–C2–2013–003 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–C2–2013–003. 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

[8] This "market clearing price" process for executing complex orders when the COB opens is similar to the process for executing simple orders when an individual component options series opens. *See* Rule 6.11(g)(1) ("In determining the priority of orders and quotes to be traded at a single clearing price, the System gives priority to market orders first, then to limit orders and quotes whose price is better than the opening price, and then to resting orders and quotes at the opening price.")

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2013–003 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03102 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68840; File No. SR–BX–2013–008]

Self-Regulatory Organizations; NASDAQ OMS BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Routing Functionality to the NASDAQ OMX BX Equities Market

February 6, 2013.

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 January 23, 2013, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add routing functionality to the NASDAQ OMX BX Equities Market.

The text of the proposed rule change is below; proposed new language is italicized.

* * * * *

4700. The NASDAQ OMX BX Equities Market

* * * * *

4750. Execution Services

* * * * *

4758. Order Routing

(a) Order Routing Process

(1) No change.

(A) No change.

(i)–(vii) No change.

(viii) BDRK is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

(ix) BCST is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS and to certain, but not all, exchanges. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

(B) No change.

(b)–(d) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to attract additional business to and enhance the functionality offered by the Exchange's NASDAQ OMX BX Equities Market by providing additional optional outbound routing services. Most equities exchanges today provide routing services and the Exchange offers a variety of routing strategies. Currently, Rule 4758, Order Routing, describes the order routing process and states that all routing shall be in compliance with Rule 611 of Regulation NMS under the Act.[3] Furthermore, it enumerates BX's routing strategies: BSTG, BSKN, BSCN, BSKP, BTFY, BMOP and BCRT.

Proposed Rule 4758(a)(1)(A)(viii) will provide that BDRK is a routing option under which orders check the System for available shares and simultaneously route to certain destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS (i.e. ''dark venues'' or ''dark pools''). If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. This strategy is intended to attract market participants that seek to execute on BX or on dark pools without executing on another exchange. Members may seek to execute in this manner to interact with resting liquidity in addition to that available on BX, while also minimizing market impact and transaction fees.

For example, if the National Best Bid/Offer (''NBBO'') is $10.00–$10.01, and BX, DarkVenueA and ARCA each offer 100 shares at $10.01, a BDRK order to buy 1000 shares at $10.01 IOC will be handled as follows: 100 shares for execution on BX and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining 800 shares are not routed and not executed, and cancelled back to the entering participant because it was an IOC order. The order did not route to ARCA because it is not a dark venue. As a second example, if the NBBO is $10.00–$10.01, and BX, DarkVenueA and ARCA each offer 100 shares at $10.01, a BDRK order to buy 1000 shares at $10.01 DAY will be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.611.

handled as follows: 100 shares for execution on BX and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining 800 shares are posted on the BX book (because it is a DAY order). Once again, the order did not route to ARCA because it is not a dark venue.

Proposed Rule 4758(a)(1)(A)(ix) will provide that BCST is a routing option under which orders check the System for available shares and simultaneously route to select dark venues and to certain low cost exchanges. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. This strategy is also intended to attract market participants who seek to save on trading fees by only executing on the Exchange, on dark venues, or on no cost and low cost exchanges.

For example, if the NBBO is $10.00–$10.01, and BX, DarkVenueA and ARCA each offer 100 shares at $10.01, a BCST order to buy 1000 shares at $10.01 DAY will be handled as follows: 100 shares for execution on BX and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining 800 shares are posted on the BX book (because it is a DAY order). The order did not route to ARCA because it is neither a dark venue nor a no cost or low cost exchange. As a second example, if the NBBO is $9.90–$10.00, with BYX offering 100 shares at $10.00 and BX, DarkVenueA and ARCA each offer 100 shares at $10.01, a BCST order to buy 1000 shares at $10.01 DAY will be handled as follows: 100 shares routed to BYX at $10.00, 100 shares for execution on BX and 100 shares routed to DarkVenue A simultaneously at $10.01; the remaining shares are posted on the BX book (because it is a DAY order). The order did not route to ARCA because it is neither a dark venue nor a no cost or low cost exchange.

In all cases, these routing strategies are designed to comply with SEC Rule 611 and the other provisions of Regulation NMS.[4] Accordingly, both BDRK and BCST will honor Protected Quotations within the meaning of Regulation NMS and will not route to any market centers included in their respective routing table at a price inferior to an available Protected Quotation. For example, if the NBBO is $9.90–$10.00, with NYSE offering 100 shares at $10.00 and BX, DarkVenueA and ARCA each offering 100 shares at $10.01, a BCST order to buy 1000 shares at $10.01 DAY will not be routed because NYSE's Protected Quotation is not included in the routing table, by definition, for BCST.

The Exchange will notify its membership of the implementation date, which the Exchange expects will be on or about the 30th day after this filing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(5) of the Act,[6] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, because BX will be better able to serve its customers and compete with other markets by offering additional optional routing services. Specifically, the two new routing strategies will provide market participants with greater flexibility in routing orders without developing order routing strategies on their own.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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, as amended. BX competes with many exchanges and other execution venues for the execution of orders in equities. Market participants can choose where to send their orders. Accordingly, the proposal is pro-competitive in that it affords the Exchange the opportunity to compete with other exchanges in terms of offering new routing strategies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or 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 subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of such 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. The Exchange has provided 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.

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–BX–2013–008 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–BX–2013–008. 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

[4] 17 CFR 242.611.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2013–008 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M O'Neill,

Deputy Secretary.

[FR Doc. 2013–03099 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68842; File No. SR–FINRA–2013–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Require Members To Report OTC Equity Transactions as Soon As Practicable, But No Later Than 10 Seconds, Following Execution

February 6, 2013.

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 February 1, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA trade reporting rules to require that members report over-the-counter (''OTC'') transactions in NMS stocks and OTC Equity Securities,[3] and cancellations of such transactions, to FINRA as soon as practicable, but no later than 10 seconds, following execution (or cancellation, as applicable).

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, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA trade reporting rules require that members report OTC transactions in NMS stocks and OTC Equity Securities that are executed during the hours that the FINRA Facilities are open within 30 seconds of execution.[4] In addition, members must report the cancellation of a trade within 30 seconds of the time of cancellation if the trade is both executed and cancelled on the same day during normal market hours.[5] Under current FINRA guidance, members are expected to report transactions as soon as practicable and should not withhold trade reports, e.g., by programming their systems to delay reporting until the last permissible second.[6]

FINRA is proposing to amend its trade reporting rules to require members to report OTC trades in NMS stocks and OTC Equity Securities as soon as practicable, but no later than 10 seconds, following execution and to report trade cancellations as soon as practicable, but no later than 10 seconds, after the time of cancellation.[7] Under the proposed rule change, all transactions not reported within 10 seconds will be marked late (unless expressly subject to a different reporting requirement[8] or excluded from the trade reporting rules altogether). FINRA understands that there will be isolated instances where a member is unable to report trades within the time period prescribed by rule, and FINRA will continue to look for a pattern and practice[9] of unexcused late trade reporting before taking action against a member. Pursuant to Rules 6181 and 6623, unexcused late reporting occurs when there are ''repeated reports of executions submitted after the required time period without reasonable justification or exceptional circumstances.'' The rules also provide that ''[e]xceptional circumstances will be determined on a case-by-case basis and may include instances of system failure by a member or service bureau, or unusual market conditions, such as extreme volatility in a security, or in the market as a whole.''

FINRA also is proposing to adopt Supplementary Material to clarify the requirement that members report trades and trade cancellations ''as soon as

[3] OTC transactions in NMS stocks, as defined in SEC Rule 600(b) of Regulation NMS, are reported through the Alternative Display Facility (''ADF'') or a Trade Reporting Facility (''TRF''), and transactions in ''OTC Equity Securities,'' as defined in FINRA Rule 6420 (i.e., non-NMS stocks such as OTC Bulletin Board and OTC Market securities), are reported through the OTC Reporting Facility (''ORF''). The ADF, TRFs and ORF are collectively referred to herein as the ''FINRA Facilities.''

[4] *See, e.g.,* FINRA Rules 6282(a), 6380A(a), 6380B(a) and 6622(a).

The TRFs and ORF are open between 8:00 a.m. and 8:00 p.m., and the ADF is open between 8:00 a.m. and 6:30 p.m.

[5] *See, e.g.,* FINRA Rules 6282(j)(2)(A), 6380A(g)(2)(A), 6380B(f)(2)(A) and 6622(f)(2)(A).

Members must report all cancellations of previously reported trades to FINRA; however, where the trade is executed or canceled outside of normal market hours, the 30-second requirement does not apply to the reporting of the cancellation.

[6] *See Regulatory Notice* 10–24 (April 2010).

[7] FINRA also is proposing conforming changes to replace the reference to 30 seconds with 10 seconds in the rules relating to the reporting of stop stock and ''prior reference price'' transactions. *See* FINRA Rules 6282(a)(4), 6380A(a)(5), 6380B(a)(5) and 6622(a)(5).

[8] For example, the proposed rule change will not amend the reporting requirements applicable to transactions in Restricted Equity Securities, as defined in Rule 6420, effected under Securities Act Rule 144A, which transactions currently are not subject to the 30-second reporting requirement. *See* Rule 6622(a)(3).

[9] The Commission notes that FINRA Rules refer to ''a pattern *or* practice.'' *See, e.g.,* FINRA Rule 6282 (emphasis added).

practicable.'' Specifically, the proposed Supplementary Material provides that members must adopt policies and procedures reasonably designed to comply with this requirement and must implement systems that commence the trade reporting process without delay upon execution (or cancellation, as applicable). Where a member has such reasonably designed policies, procedures and systems in place, the member generally will not be viewed as violating the ''as soon as practicable'' requirement because of delays in trade reporting that are due to external factors where the member does not purposely intend to delay the reporting of the trade. The proposed Supplementary Material also expressly prohibits members from purposely withholding trade reports, e.g., by programming their systems to delay reporting until the last permissible second. FINRA notes that members that engage in a pattern and practice [10] of unexcused late reporting (i.e., reporting later than 10 seconds after execution) may be charged with violating FINRA rules, notwithstanding that they have policies and procedures that contemplate commencing the trade reporting process without delay.

Timely reporting has become even more critical with the implementation of the Single Stock Circuit Breaker trading pause rules and the upcoming implementation of the NMS Plan to Address Extraordinary Market Volatility (or ''Limit Up/Limit Down'') this year. For example, the price bands under Limit Up/Limit Down will be a certain percentage away from a ''reference price,'' which is generally the average price of regular way, last-sale eligible trades for a security over the immediately preceding five-minute period. All regular way, last sale eligible trades reported within the time frame prescribed by rule (i.e., that are not reported late) will be included in the calculation of the reference price.[11] Given how quickly the price for a security can change, a trade executed and reported in 30 seconds potentially may no longer reflect the current market and could improperly impact the calculation of reference prices or, at an extreme, trigger a single stock circuit breaker (which will remain in effect for certain NMS stocks during the phased implementation of Limit Up/Limit Down). In addition, trade reports received 30 seconds after execution are more likely to appear to market participants as violations of Limit Up/Limit Down (i.e., executions outside of the price bands), as well as the Regulation NMS Order Protection Rule (i.e., trading at a price worse than the best displayed bid or offer, commonly referred to as a ''trade-through'').[12] Even though the vast majority of OTC trades are reported within 10 seconds today,[13] market participants have no certainty whether a particular trade reflects the immediate current market. This is because today, when FINRA disseminates OTC trades to the consolidated ''tapes,'' [14] it does not distinguish between a trade reported one second after execution and a trade reported 30 seconds after execution, as both are considered timely under FINRA rules.

FINRA believes that reducing the reporting time and codifying current guidance requiring that members report trades as soon as practicable and not hold back trade reports is necessary to promote consistent and timely reporting by all members. In addition, FINRA believes that the proposed rule change will help ensure that members are attentive to transaction reporting standards.

FINRA believes that very few members would be unable to comply with the proposed rule change today. For the one-week period cited in footnote 11 herein, 288 member firms reported one or more OTC trades to FINRA. Of these firms, only 12 were unable to report any of their trades within 10 seconds. Of the 25,251,098 last sale eligible trades reported during this period, the total number of trades reported by these 12 firms was 21 (0.0000831% of the total number of trades). In addition, there were only 22 member firms that were unable to report at least 50% of their last sale eligible trades within 10 seconds (this number includes the 12 firms mentioned above). The total number of trades reported by these 22 firms was 899 (0.0035602% of the total number of trades). FINRA contacted more than half of the 22 firms to discuss their trade reporting protocols and the potential impact that the proposed rule change might have on them. The majority of the firms that FINRA spoke to indicated that their business model is not to execute and report trades, but instead to route most of their orders to other firms for execution,[15] while a few other firms indicated that, as a more general matter, they do not trade equities very frequently. Accordingly, FINRA believes that the burden of the proposed rule change should be minimal, particularly since, as noted above, FINRA looks to a pattern and practice [16] of late trade reporting and typically does not charge a member for isolated instances of late reporting.

FINRA originally considered a requirement that members report transactions ''immediately,'' but no later than 10 seconds, following execution. FINRA staff discussed the proposed rule change with several of its industry advisory committees in developing its approach. While these committees were generally supportive of the proposal, they indicated the need for (1) a sufficient implementation period so that members can make any necessary systems changes (as noted above, FINRA is proposing a 120 to 180 day implementation period following Commission approval); (2) revision of the standard from ''immediately'' to ''as soon as practicable'' and a request to provide additional clarity on the interpretation and application of the ''as soon as practicable'' requirement (FINRA further clarified this as part of the proposed Supplementary Material); and (3) additional guidance for situations where delays could result from queuing of data into the FINRA Facilities (given that the vast majority of trades today are reported within 10 seconds, FINRA does not believe that the proposed rule change will cause any queuing issues into the FINRA

[10] *Id.*

[11] By its terms, Limit Up/Limit Down will be implemented on a one-year pilot basis in two phases. Phase I is currently scheduled to begin on April 8, 2013 in select NMS stocks. Although the proposed rule change, if approved, will not be in place at the commencement of Phase I, FINRA believes it ultimately will be beneficial to the operation of Limit Up/Limit Down.

[12] For example, if a trade is not disseminated until 30 seconds after execution, the best displayed market could have changed dramatically between the time of execution and ultimate dissemination of the trade, giving the appearance of a trade-through of the then-current market.

[13] For example, during the period of July 9 through July 13, 2012, 99.96% of last-sale eligible trades were reported within 10 seconds of execution (with a breakdown of 99.97% of OTC trades in NMS stocks and 99.04% of OTC trades in OTC Equity Securities).

[14] Trades reported for public dissemination purposes are transmitted to three ''tapes'' based on the listing venue of the security: New York Stock Exchange securities (Tape A), NYSE Arca, NYSE MKT and other regional exchange securities (Tape B), and Nasdaq Stock Market securities (Tape C). Tape A and Tape B are governed by the Consolidated Tape Association Plan (CTA Plan) and Tape C is governed by the Nasdaq Unlisted Trading Privileges Plan (UTP Plan).

[15] FINRA notes that members, particularly smaller members, that route their orders to another member for handling or execution do not have the trade reporting obligation under FINRA rules. For transactions between members, the ''executing party'' (which is defined as the member that receives an order for handling or execution or is presented an order against its quote, does not subsequently re-route the order, and executes the transaction) has the obligation to report the trade to FINRA. *See* Rules 6282(b), 6380A(b), 6380B(b) and 6622(b); *see also Regulatory Notice* 09–08 (January 2009).

[16] *See, supra* note 9.

Facilities). Finally, the committees asked for guidance on how the rule would apply to late reporting during periods of market stress, e.g., high volatility days such as the Russell index rebalancing, where compliance rates could be impacted. As noted above, extraordinary market volatility is taken into consideration currently, and would continue to be considered under the proposed reporting time frame, in determining whether exceptional circumstances exist to excuse late trade reporting. FINRA also notes that its staff reviewed members' compliance rates on the date of Russell index rebalancing in 2012 and determined that there was no appreciable decrease in the percentage of trades reported within 10 seconds of execution on that day.

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice.* As discussed above, a small number of members currently are unable to report trades within 10 seconds and may need to make systems changes to comply with the proposed rule change. While the vast majority of members have automated their trade reporting systems and are already reporting within the proposed time frame, even these members may need to make programming adjustments (e.g., to modify the trigger for appending the late modifier, as required under FINRA rules, from 30 seconds to 10 seconds after execution of the trade). To allow sufficient time to make the necessary systems changes, FINRA is proposing that the implementation date will be between 120 and 180 days following the date of Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[17] 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. For the reasons discussed above, FINRA believes that the proposed rule change will enhance market transparency and price discovery, promote more consistent trade reporting by members and facilitate implementation and further the goals of the Single Stock Circuit Breaker trading pause rules and the NMS Plan to Address Extraordinary Market Volatility.

[17] 15 U.S.C. 78*o*–3(b)(6).

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. FINRA believes the vast majority of firms that engage in equities transactions have automated their trade reporting systems so that the proposed rule change will not have an economic impact.[18] Furthermore, FINRA believes that the proposed rule change will not have a competitive impact on smaller members that may rarely have a trade reporting obligation, given the policies and procedures approach to determining compliance with the ''as soon as practicable'' requirement, and the pattern and practice [19] nature of FINRA's late trade reporting surveillance and enforcement. While smaller members will be expected to adopt policies and procedures that contemplate reporting any trades for which they have the reporting obligation as soon as practicable, their infrequent instances of trade reporting likely would never rise to the level of a pattern and practice [20] of late reporting.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[18] This is supported by a review of member trade reporting statistics. As previously noted, during the period of July 9 through July 13, 2012, 99.96% of last-sale eligible trades were reported within 10 seconds of execution. For that same period, 99.71% and 94.31% of trades were reported within 5 seconds and 2 seconds of execution, respectively.

[19] *See, supra* note 9.

[20] *Id.*

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–FINRA–2013–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–FINRA–2013–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 No. SR–FINRA–2013–013 and should be submitted on or before March 5, 2013.

[21] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03101 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68841; File No. SR–NASDAQ–2013–020]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Limit Locator Service Offered at No Cost to Subscribing Members

February 6, 2013.

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 January 28, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish the Limit Locator service offered at no cost to subscribing members beginning February 4, 2013. The text of the proposed rule change is below. Proposed new language is italicized.

7061. Limit Locator

Limit Locator is a tool to assist a member firm in monitoring its trades reported into the FINRA/NASDAQ TRF for compliance with the requirements of the National Market System Plan to Address Extraordinary Market Volatility. The service provides a subscribing member firm with an overview of its trades reported at, or outside of, a designated Limit Up/Limit Down pricing band. The service will provide a total count of the subscribing member firm's trades in each category as well as present this information graphically, on a rolling month basis. A subscribing member firm is able to create custom emails alerts to notify users when a trade is reported at, or outside of, a Limit Up/Limit Down pricing band. Limit Locator is accessed through the NASDAQ Workstation or Weblink ACT 2.0 and is offered at no cost at this time.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt a new add on tool to the NASDAQ Workstation and/or Weblink ACT 2.0, Limit Locator, to assist a member firm in monitoring its trades reported into the FINRA/NASDAQ TRF (''TRF'') for compliance with the requirements of the National Market System Plan to Address Extraordinary Market Volatility (the ''Plan'').[3] The Plan provides a limit up/limit down mechanism designed to prevent trades in NMS securities from occurring outside of specified price bands. The bands will be set a percentage level above and below the average reference price of the security over the immediately preceding five-minute period, and are calculated on a continuous basis during regular trading hours. If the National Best Offer (''NBO'') equals the lower price band without crossing the NBO, or National Best Bid (''NBB'') equals the upper price band without crossing the NBB, then the stock will enter a limit state quotation period of 15 seconds during which no new reference prices or price bands will be calculated. A stock will exit the limit state when the entire size of all quotations are either executed or cancelled. If the limit state exists and trading continues to occur at the price band, or no trading occurs within the price band, for more than 15 second then a five minute trading pause will be enacted. The Plan requires that member firms establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

NASDAQ is proposing to offer Limit Locator to member firms to assist them in monitoring compliance with the Plan by tracking trades reported to the TRF that occur at, or outside of, the limit up/limit down bands and providing notice thereof.[4] A record will be displayed if Limit Locator finds that a trade was reported: at lower price band; at higher price band; outside lower price band; or outside lower price band [sic]. The service will provide a subscribing member firm with both daily trade data and 30 days of historical data, which will be available for export in CSV format. The information provided by the service is presented numerically as a running intra-day count of all trades that fit within each of the four categories, and presented graphically as daily totals on a rolling month basis. A subscribing member firm will also have the option to receive email alerts when a trade is reported to the TRF at, or outside of, a limit up/limit down band.

On April 8, 2013, Phase I of the Plan will go into effect. Phase I of the Plan will apply only to Tier 1 NMS Stocks. To assist firms in preparing for the implementation of Phase I, the Security [sic] Information Processors will begin disseminating limit up/limit down information in select stocks on a test basis beginning February 4, 2013. Accordingly, NASDAQ is proposing to offer Limit Locator on February 4, 2013 so that member firms may begin to use the tool concurrent with the availability of the limit up/limit down test data. The Exchange is proposing to offer Limit Locator at no cost to members at this time, but may assess a fee in the future. Any such fee would be filed with the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On April 5, 2011, the Exchange, together with other self-regulatory organizations, filed with the Commission a national market system plan to adopt a market-wide limit up/limit down system to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks, like that which was experienced on May 6, 2010. Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011) (File No. 4–631). The Plan was approved by the Commission on a pilot basis on May 31, 2012. Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[4] Limit Locator will help a subscribing member firm to identify trades reported to the TRF that occurred at or outside of the limit up/limit down bands, but will not prevent such trades from occurring. A member firm may use the information provided by Limit Locator to prevent additional violations of the Plan from occurring by taking corrective action, but use of Limit Locator does not satisfy a member firm's obligation under the Plan to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up/limit down and trading pause requirements.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes the proposed rule change is consistent with these requirements because the proposed service provides a subscribing member firm with a useful monitoring and analytical tool with which it may determine where its TRF-reported trades are occurring in relation to the limit up/limit down bands, receive notice of trades that occurred at, or outside of, the limit up/limit down bands, and conduct research using thirty days of historical data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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, as amended. The proposed service is designed to promote a competitive marketplace by promoting compliance with the Plan. In furtherance of that goal, the proposed service provides a subscribing member firm with a tool to identify orders reported to the TRF that fall at or outside of the limit up/limit down bands, and receive notice thereof. With that information, the member firm may take corrective action to avoid further violations of the Plan. Moreover, the proposed service will allow a subscribing member firm the ability to research its historical trades.

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.

[5] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[8] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to offer this service on February 4, 2013, the date that the markets will begin transmitting limit up/limit down data for select test securities and approximately two months prior to the Phase I Plan implementation date. By waiving the operative delay, member firms will be afforded additional time to subscribe to, and test adequately, the service. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[10]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[11] to determine whether the proposed rule change should be approved or disapproved.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 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).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NASDAQ–2013–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NASDAQ–2013–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments

[11] 15 U.S.C. 78s(b)(2)(B).

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NASDAQ–2013–020 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03100 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68855; File No. SR–FINRA–2013–010]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Individual Stock Trading Pause Pilot Program

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 1, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by 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 amend FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to extend the effective date of the pilot, which is currently scheduled to expire on February 4, 2013, until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014.

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 FINRA Rule 6121.01 (Trading Pauses), which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of February 4, 2013,[4] until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility [5] or February 4, 2014. The pilot will continue to operate as to individual securities until such security is subject to the Regulation NMS Plan to Address Extraordinary Market Volatility.

FINRA Rule 6121.01 provides that if a primary listing market has issued an individual stock trading pause under its rules, FINRA will halt trading otherwise than on an exchange in that security until trading has resumed on the primary listing market. The pilot was developed and implemented as a market-wide initiative by FINRA and other self-regulatory organizations (''SROs'') in consultation with the Commission staff and is currently applicable to all NMS stocks (other than rights and warrants) and specified exchange-traded products.[6]

The extension proposed herein would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility. The Regulation NMS Plan to Address Extraordinary Market Volatility will not begin initial operations on February 4, 2013 as previously planned, but has been delayed until April 8, 2013.[7] If the Regulation NMS Plan to Address Extraordinary Market Volatility has an initial date of operations before February 4, 2014, the trading pause pilot would expire at that time.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date of this proposed rule change will be the date of filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] 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 meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

Additionally, extension of the pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 would allow the pilot to continue to operate without interruption while FINRA, the other SROs and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot, which contributes to the protection of investors and the public interest.

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

[12] 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)(b).

[4] *See* Securities Exchange Act Release No. 67578 (August 2, 2012), 77 FR 47469 (August 8, 2012) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2012–037).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility).

[6] *See* Securities Exchange Act Release No. 65819 (November 23, 2011), 76 FR 74105 (November 30, 2011) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2011–068).

[7] *See* Letter from Janet McGinness, EVP & Corporate Secretary, General Counsel, NYSE Markets, to Elizabeth M. Murphy, Secretary, SEC dated January 17, 2013.

[8] 15 U.S.C. 78*o*-3(b)(6).

of the purposes of the Act. The proposed changes are being made to extend the operation of the trading pause pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014, and would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility, which contributes to the protection of investors and the public interest. Other SROs are subject to the same trading pause requirements specified in the Regulation NMS Plan to Address Extraordinary Market Volatility. Thus, the proposed rule change will not impose any burden on competition while providing trading pause requirements specified in the Regulation NMS Plan to Address Extraordinary Market Volatility.

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

FINRA has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot program to continue uninterrupted. Accordingly, the Commission hereby grants FINRA's request and designates the proposal operative upon filing. [13]

At any time within 60 days of the filing of such 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–2013–010 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–2013–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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 publicly available. All submissions should refer to File Number SR–FINRA–2013–010 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03189 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires FINRA to give the Commission written notice of FINRA's 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.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 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).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68850; File No. SR–NASDAQ–2013–017]

Self-Regulatory Organizations; The NASDAQ Stock Market; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Restore Certain Requirements That Were Inadvertently Deleted From Rule 5815 Relating to a Staff Delisting Determination, Public Reprimand Letter, or Written Denial of a Listing Application

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on January 25, 2013, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to restore certain requirements that were inadvertently deleted when Rule 5815 was adopted in March 2009 and remove from the rules fees that have expired.

The text of the proposed rule change is below.[3] Proposed new language is *italicized;* proposed deletions are in brackets.

* * * * *

5815. Review of Staff Determinations by Hearings Panel

When a Company receives a Staff Delisting Determination or a Public Reprimand Letter issued by the Listing Qualifications Department, or when its application for initial listing is denied, it may request in writing that the Hearings Panel review the matter in a written or an oral hearing. This section sets forth the procedures for requesting a hearing before a Hearings Panel, describes the Hearings Panel and the possible outcomes of a hearing, and sets forth Hearings Panel procedures.

(a) Procedures for Requesting and Preparing for a Hearing

(1) Timely Request Stays Delisting

(A) A Company may, within seven calendar days of the date of the Staff Delisting Determination notification, Public Reprimand Letter, or *written* denial of a listing application, request a written or oral hearing before a Hearings Panel to review the Staff Delisting Determination*, Public Reprimand Letter, or written denial of a listing application.* Subject to the limitation in paragraph (B) below, a timely request for a hearing will stay the suspension and delisting action pending the issuance of a written Panel Decision. Requests for hearings should be submitted in writing to the Hearings Department.

(B) No changes.

(2) Failure to Request Results in Immediate Delisting

If a Company fails to request in writing a hearing within seven calendar days, it waives its right to request review of a Delisting Determination*, Public Reprimand Letter, or written denial of an initial listing application.* In [that event,] the *case of a Company's failure to timely request a hearing to review a Delisting Determination, the* Hearings Department will take action to suspend trading of the securities and follow procedures to delist the securities.

(3) Fees

Within 15 calendar days of the date of the Staff Delisting Determination*, Public Reprimand Letter, or written denial of an initial listing application,* the Company must submit a hearing fee of $10,000. [However, if the hearing request relates to a Staff Delisting Determination dated before January 2, 2013, the Company must submit a hearing fee as follows:

(A) when the Company has requested a written hearing, $4,000; or

(B) when the Company has requested an oral hearing, whether in person or by telephone, $5,000.]

(4)–(6) No changes.

(b)–(d) No changes.

5820. Appeal to the Nasdaq Listing and Hearing Review Council

A Company may appeal a Panel Decision to the Listing Council. The Listing Council may also call for review a Panel Decision on its own initiative. This Rule 5820 describes the procedures applicable to appeals and calls for review.

(a) Procedure for Requesting Appeal

A Company may appeal any Panel Decision to the Listing Council by submitting a written request for appeal and a fee of $10,000 to the Nasdaq Office of Appeals and Review within 15 calendar days of the date of the Panel Decision. [However, if the appeal relates to a Panel Decision dated before January 2, 2013, the applicable fee is $4,000.] An appeal will not operate as a stay of the Panel Decision. Upon receipt of the appeal request and the applicable fee, the Nasdaq Office of Appeals and Review will acknowledge the Company's request and provide deadlines for the Company to provide written submissions.

(b)–(e) No changes.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to the Nasdaq Listing Rule Series 5800, companies may seek review of a determination by Nasdaq Staff to deny initial listing or delist a company's securities or to issue a Public Reprimand Letter, by requesting an oral or written hearing before an independent Hearings Panel. The proposed rule change restores certain provisions about the Hearings process that were inadvertently deleted when Rule 5815 was adopted in March 2009 as part of a comprehensive re-write of the listing rules, designed to improve the organization of the rules, eliminate redundancies and simplify the rule language.[4] In that rule filing, Nasdaq specifically represented that ''it is not making any substantive changes to the Listing Rules in this proposal.'' [5]

First, the proposed rule change clarifies that fees for a hearing are applicable to any requests for a hearing, whether sought for review of a Public Reprimand Letter, Staff denial of an initial listing application, or review of a delisting determination. The preamble text in Rule 5815 makes clear that a Company may request a hearing for review of a Public Reprimand or denial of an initial listing application, as well as a Delisting Determination. Similarly, the predecessor to Rule 5815, former Rule 4805, allowed a company to request review of a ''Staff Determination,'' which was defined in former Rule 4801(k)(1) as ''a written determination by the Listing Department to limit or prohibit the initial or continued listing of an issuer's securities * * * or * * * a public reprimand letter* * *.'' [6] However, while former Rule 4805(d) required a company to pay the applicable fee whenever it requested a hearing for review of a Staff Determination, Rule 5815(a)(3) does not specifically impose a fee for requests for review of a Public Reprimand Letter or denial of an initial listing application. The proposed rule change amends Rule 5815(a)(3) to state that fees for hearings continue to apply to requests for review of a Public Reprimand and denial of an initial listing application.[7]

Second, the proposed rule change restores the requirement that a denial of initial listing must be in writing in order to be eligible for review under Rule 5815. This requirement was also inadvertently deleted during the same re-write of the listing rules. As noted above, the definition in the prior rules of a ''Staff Determination,'' which could be appealed to the Panel, was ''a written determination by the Listing Department.'' This requirement helped assure that Staff has completed its review before a matter could proceed to the Panel, and that the Panel has formal documentation of Staff's concerns when it considers the matter, thereby allowing

[3] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *http://nasdaq.cchwallstreet.com.*

[4] Exchange Act Release No. 59663 (March 31, 2009), 74 FR 15552 (April 6, 2009) (SR–NASDAQ–2009–018).

[5] *Id.* at 15553.

[6] The former Listing Rules are available at *http://nasdaq.cchwallstreet.com/NASDAQ/pdf/old_listing_rules.pdf.*

[7] Since the new rulebook was adopted, the practice of applying fees to all requests for hearings has continued.

the Panel to fully fulfill its investor protection mandates and allow companies a fair and substantive review process. Nasdaq proposes to restore this requirement to add transparency to the rules.

Finally, the proposed rule change removes language in Rules 5815(a)(3) and 5820 that describes fees that are no longer applicable. Nasdaq adopted new fees effective for companies that request review of a Staff Delisting Determination issued on or after January 2, 2013 or a Panel Decision issued on or after January 2, 2013. This rule change removes from the rule text the fees applicable before that date, because no companies are eligible to request review under the old fees.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general and with Sections 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market systems, and in general to protect investors and the public interest. The proposed amendment will provide clarity and reflect the legacy rule, which Nasdaq did not intend to modify, and the continued practice of applying fees to requests for all hearings and allowing appeals only of written decisions to deny initial inclusion. The proposed rule change will also conform the various parts of Rule 5815, thereby clarifying Nasdaq's rules to the benefit of investors and the public interest.

Nasdaq also believes that the proposed changes are consistent with Section 6(b)(7) of the Act,[10] in that the proposed changes are consistent with the provision by the Exchange of fair procedures for the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange. In particular, Nasdaq believes that the clarifications about the availability and requirements for an appeal support a fair process designed to provide substantive review of formal determinations of Nasdaq.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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, as amended. The market for listing services is extremely competitive and listed companies may freely choose alternative venues. For this reason, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were n either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[13]

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.[14]

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–NASDAQ–2013–017 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–NASDAQ–2013–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–017 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03107 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15. U.S.C. 78f(b)(7).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[14] 15 U.S.C. 78s(b)(3)(C).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68847; File No. SR–NASDAQ–2013–016]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change for the Purpose of Amending Rule 7014(g)

February 6, 2013.

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 January 30, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7014(g). The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is amending Rule 7014(g), which establishes a pricing incentive program for members designated as Qualified Market Makers (''QMM'') under the terms of the rule. Under the QMM program, which was adopted in November 2012 on a six-month pilot basis,[3] a member may be designated as a QMM with respect to one or more of its MPIDs if:

- The member is not assessed any ''Excess Order Fee'' under Rule 7018 during the month;[4] and
- Through such MPID the member quotes at the NBBO at least 25% of the time during regular market hours[5] in an average of at least 1,000 securities during the month.[6]

The proposed rule change addresses a circumstance in which a member seeking to be designated as a QMM terminates the use of one MPID and simultaneously commences use of another MPID during the course of a month. In that circumstance, NASDAQ believes that it is reasonable to allow the member to aggregate activity on the two MPIDs, essentially treating them like a single MPID, for the purpose of determining eligibility. By codifying this interpretation, the proposed rule change will enhance the transparency of the rule.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act[8] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. NASDAQ believes that the adoption of a clear policy with respect to the interpretation of Rule 7014(g) will promote members' understanding of the parameters of the rule and the efficiency of its administration.

NASDAQ further believes that the proposed rule change is consistent with Sections 6(b)(4) and (b)(5) of the Act,[9] in that it is consistent with an equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls and is not unreasonably discriminatory. The addition of rule language stipulating the permissibility of aggregating two MPIDs when use of one is terminated during the course of the month establishes a standard that is clear and easy to administer. The provision is equitable and not unreasonably discriminatory because all members seeking to terminate the use of an MPID during the course of a month are subject to the same commonsense parameters, which do not unfairly penalize a member for transitioning order entry activity from one MPID to another, and because the standard is consistent with the overall goal of the QMM program to encourage members to improve market quality by quoting extensively at or near the inside.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ 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, as amended. The change will adopt a clear and commonsense standard for members that wish to qualify for the QMM program but that terminate the use of one MPID and commence the use of another MPID during the course of the month. NASDAQ believes that in fact this change will promote competition and further the pro-competitive goals of encouraging members to improve market quality by quoting extensively at or near the inside, as it insures that a member that transitions MPIDs is not barred from participating in the program during the month of transition. Moreover, NASDAQ notes that because

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68209 (November 9, 2012), 77 FR 69519 (November 19, 2012).

[4] Rule 7018(m). NASDAQ recently introduced an Excess Order Fee, aimed at reducing inefficient order entry practices of certain market participants that place excessive burdens on the systems of NASDAQ and its members and that may negatively impact the usefulness and life cycle cost of market data. In general, the determination of whether to impose the fee on a particular MPID is made by calculating the ratio between (i) entered orders, weighted by the distance of the order from the NBBO, and (ii) orders that execute in whole or in part. The fee is imposed on MPIDs that have an ''Order Entry Ratio'' of more than 100.

[5] Defined as 9:30 a.m. through 4:00 p.m., or such shorter period as may be designated by NASDAQ on a day when the securities markets close early (such as the day after Thanksgiving).

[6] A member MPID is considered to be quoting at the NBBO if it has a displayed order at either the national best bid or the national best offer or both the national best bid and offer. On a daily basis, NASDAQ will determine the number of securities in which the member satisfied the 25% NBBO requirement. To qualify for QMM designation, the MPID must meet the requirement for an average of 1,000 securities per day over the course of the month. Thus, if a member MPID satisfied the 25% NBBO requirement in 900 securities for half the days in the month, and satisfied the requirement for 1,100 securities for the other days in the month, it would meet the requirement for an average of 1,000 securities.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

the market for order execution and routing is extremely competitive, members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. Accordingly, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay.[14] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow a member that terminates one MPID and simultaneously commences use of another MPID during the course of a month to aggregate activity on the two MPIDs to determine eligibility for the QMM program during the month of transition without delay. Accordingly, the Commission designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule–comments@sec.gov*. Please include File Number SR–NASDAQ–2013–016 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–NASDAQ–2013–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–016 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03185 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6)(iii). 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 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. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of accelerating the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68849; File No. SR–ISE–2012–100]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving a Proposed Rule Change To Reduce the Response Times in the Block Mechanism, Facilitation Mechanism, Solicited Order Mechanism and Price Improvement Mechanism From One Second to 500 Milliseconds

February 6, 2013.

I. Introduction

On December 19, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 amend ISE Rules 716 (Block Trades) and 723 (Price Improvement Mechanism for Crossing Transactions) to reduce the response times in the Block Mechanism, Facilitation Mechanism, Solicited Order Mechanism and Price Improvement Mechanism (''PIM'') from one second to 500 milliseconds (*i.e.,* ½ of one second). The proposed rule change was published for comment in the **Federal Register** on December 27, 2012.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68492 (December 20, 2012), 77 FR 76336 (''Notice'').

II. Description of the Proposed Rule Change

ISE Rule 716 (Block Trades) contains the requirements applicable to the execution of orders using the Block Order Mechanism, Facilitation Mechanism and Solicited Order Mechanism. The Block Order Mechanism allows ISE members to obtain liquidity for the execution of a block-size order.[4] The Facilitation and Solicited Order Mechanisms allow ISE members to enter cross transactions seeking price improvement.[5] ISE Rule 723 (Price Improvement Mechanism for Crossing Transactions) contains the requirements applicable to the execution of orders using the PIM. The PIM allows ISE members to enter cross transactions of any size. The Facilitation, Solicited Order Mechanisms and PIM allow for ISE members to designate certain customer orders for price improvement and submit such orders into one of the mechanisms with a matching contra order. Once such an order is submitted, ISE commences an auction by broadcasting a message to all ISE members that includes the series, price, size and side of the market.[6] Further, responses within the PIM (*i.e.,* Improvement Orders), are also broadcast to market participants during the auction.

Orders entered into the Block Order Mechanism, Facilitation Mechanism, Solicited Order Mechanism, and PIM are currently exposed to all market participants for one second, giving them an opportunity to enter additional trading interest before the orders are automatically executed. Under the proposal, the exposure period for each of the four mechanisms would be reduced from one second to 500 milliseconds.

III. Discussion and Commission's 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 exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[9] which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that, given the electronic environment of ISE, reducing each of the exposure periods from one second to 500 milliseconds could facilitate the prompt execution of orders, while continuing to provide market participants with an opportunity to compete for exposed bids and offers. To substantiate that its members could receive, process and communicate a response back to ISE within 500 milliseconds, ISE stated that it surveyed all ISE members that have participated in the mechanisms in 2011 and 2012. Seventeen of the twenty-one firms surveyed indicated that they can currently receive, process and communicate a response back to ISE within 500 milliseconds. Of the four firms that cannot currently respond within 500 milliseconds, one firm stated that 500 milliseconds is sufficient for non-complex orders in the mechanisms, but had not yet tested for complex orders. Each of the four firms indicated that with six weeks' notice of the implementation date, they can perform the systems work necessary to respond to an ISE broadcast within 500 milliseconds.[10] To give ISE members an opportunity to make any necessary modifications to coincide with the implementation date, ISE, upon effectiveness of the proposal, and at least six weeks prior to implementation of the proposed rule change, will issue an Informational Circular to Members, informing its members of the implementation date of the reduction of the auction from one second to 500 milliseconds in the mechanisms to allow members the opportunity to perform systems changes. In addition, ISE reviewed all executions occurring in the mechanisms by ISE members for the month of October 2012. This review of executions in the mechanisms indicated that approximately ninety-three percent (93%) of responses in the mechanisms (excluding PIM) and approximately eighty-nine percent (89%) of responses in the PIM that resulted in price improving executions at the conclusion of an auction were submitted within 500 milliseconds.[11] Furthermore, with regard to the impact of the proposal on system capacity, ISE has analyzed its capacity and represented that it has the necessary systems capacity to handle the potential additional traffic associated with the additional transactions that may occur with the implementation of the reduction in the auction duration to 500 milliseconds.[12]

Based on ISE's statements, the Commission believes that market participants should continue to have opportunities to compete for exposed bids and offers within a 500 millisecond exposure period. Accordingly, the Commission believes that it is consistent with the Act for the Exchange to reduce the response times in the Block Mechanism, Facilitation Mechanism, Solicited Order Mechanism and PIM from one second to 500 milliseconds.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–ISE–2012–100) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03106 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[4] Block-size orders are orders for 50 contracts or more. *See* ISE Rule 716(a).

[5] Only block-size orders can be entered into the Facilitation Mechanism, whereas only orders for 500 contracts or more can be entered into the Solicited Order Mechanism. *See* ISE Rule 716(d) and (e).

[6] ISE members may choose to hide the size, side and price when entering orders into the Block Order Mechanism.

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(8).

[10] *See* Notice, *supra* note 3, at 76337.

[11] *Id., supra* note 3, at 76337.

[12] *Id., supra* note 3, at 76338.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68854; File No. SR–CBOE–2013–010]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Individual Stock Trading Pause Pilot Program

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2013, Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the individual stock trading pause pilot program pertaining to the CBOE Stock Exchange, LLC (''CBSX,'' the CBOE's stock trading facility). This rule change simply seeks to extend the pilot. No other changes to the pilot are being proposed.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

1. Rule 6.3C—Individual Stock Trading Pause Due to Extraordinary Market Volatility

2.

* * * * *

* * * Interpretations and Policies:

* * * * *

.03 The provisions of this Rule shall be in effect for eligible NMS stocks during a pilot period ending *on the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or* February 4, 201*4*[3]. The term ''eligible NMS stocks'' shall mean NMS stocks, other than rights and warrants. Trading in an eligible NMS stock will pause between the hours of 8:45 a.m. and 2:35 p.m. (all times are CT), or in the case of an early scheduled close, 25 minutes before the close of trading, if the price of the stock moved by a percentage specified below within a five-minute period (''Threshold Move''), as calculated by the primary listing market as follows:

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 6.3C, *Individual Stock Trading Pauses Due to Extraordinary Market Volatility,* was approved by the Securities and Exchange Commission (''Commission'') on June 10, 2010 on a pilot basis. The pilot is currently set to expire on February 4, 2013.[3] The rule was developed in consultation with U.S. listing markets to provide for uniform market-wide trading pause standards for certain individual stocks that experience rapid price movement.[4]

As the duration of the pilot expires on February 4, 2013, the Exchange is proposing to extend the effectiveness of Rule 6.3C until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014. The pilot will continue to operate as to individual securities until such security is subject to the Regulation NMS Plan to Address Extraordinary Market Volatility. Extending the extension date would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility.[5] The Regulation NMS Plan to Address Extraordinary Market Volatility will not begin initial operations on February 4, 2013 as initially planned, but has an amended anticipated implementation date of April 8, 2013.[6] If the Regulation NMS Plan to Address Extraordinary Market Volatility has an initial date of operations before February 4, 2014, the proposed pilot for trading pauses will expire at that time.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010)(SR–CBOE–2010–047)(approval order establishing pilot through December 10, 2010); 63502 (December 9, 2010), 75 FR 78306 (December 15, 2010)(SR–CBOE–2010–112)(extension of pilot through April 11, 2011); 64194 (April 5, 2011), 76 FR 2–389 (April 12, 2011)(SR–CBOE–2011–031)(extension of pilot through the earlier of August 11, 2011 or the date on which a limit up-limit down mechanism to address extraordinary market volatility, if adopted, applies to the Circuit Breaker Stocks); 65070 (August 9, 2011), 76 FR 50516 (August 15, 2011)(SR–CBOE–2011–076)(extension of pilot through January 31, 2012); 66166 (January 17, 2012), 77 FR 3311 (January 23, 2012)(SR–CBOE–2012–01)(extension of pilot through July 31, 2012); and 67574 (August 2, 2012), 77 FR 49848 (August 17, 2012)(SR–CBOE–2012–069)(extension of pilot through February 4, 2012).

[4] The pilot list of stocks originally included all stocks in the S&P 500 Index, but it has been expanded over time to include all NMS stocks, other than rights and warrants. *See* Securities Exchange Act Release Nos. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010)(SR–CBOE–2010–065)(order approving expansion of the individual stock trading pause pilot to include all stocks in the Russell 1000 index and a pilot list of Exchange Traded Products); 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011)(SR–CBOE–2011–049)(order approving further expansion of the individual stock trading pause pilot to include all NMS stocks effective August 8, 2011); and 65824 (November 23, 2011), 76 FR 74111 (November 30, 2011)(SR–CBOE–2011–111)(immediately effective rule change to amend the individual stock trading pause pilot to exclude all rights and warrants).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc).

[6] *See* Letter from Janet M. McGinness, Executive Vice President and Corporate Secretary, General Counsel, NYSE Markets, to Elizabeth M. Murphy, Secretary, Commission, dated January 17, 2013.

[7] 15 U.S.C. 78f(b).

6(b)(5)[8] requirements that the rules of an exchange 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 facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the change proposed herein meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements, which promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system. Additionally, extension of the pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 would allow the pilot to continue to operate without interruption while the Exchange and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot, which contributes to the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to extend the operation of the trading pause pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility, which contributes to the protection of investors and the public interest. Other competing equity exchanges are subject to the same trading pause requirements specified in the Plan. Thus, the proposed changes will not impose any burden on competition while providing trading pause requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2013–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 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).

inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CBOE–2013–010 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03188 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68838; File No. SR-Phlx-2013–08]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Routing Functionality of the NASDAQ OMX PSX Market

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on January 23, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to add routing functionality to the NASDAQ OMX PSX Market (''System''). Specifically, the Exchange proposes to amend Rule 3315, Order Routing.

Proposed new language is italicized.

* * * * *

NASDAQ OMX PSX

NASDAQ OMX PSX (Rules 3000–3407)

Rule 3000. NASDAQ OMX PSX

* * * * *

3315. Order Routing

(a) Order Routing Process

(1) No change.

(A) No change.

(i)–(vii) No change.

(viii) XDRK is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

(ix) XCST is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS and to certain, but not all, exchanges. If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

(B) No change.

(b)–(d) Not applicable.

* * * * *

(b) and (c) Not applicable.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to attract additional business to and enhance the functionality offered by the Exchange's NASDAQ OMX PSX equities market by providing additional optional outbound routing services. Most equities exchanges today provide routing services and the Exchange offers a variety of routing strategies. Currently, Rule 3315, Order Routing, describes the order routing process and states that all routing shall be in compliance with Rule 611 of Regulation NMS under the Act.[3] Furthermore, it enumerates PSX's routing strategies: PSTG, PSKN, PSCN, PSKP, PTFY, PMOP and PCRT.

Proposed Rule 3315(a)(1)(A)(viii) will provide that XDRK is a routing option under which orders check the System for available shares and simultaneously route to certain destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS (i.e. ''dark venues'' or ''dark pools''). If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. This strategy is intended to attract market participants that seek to execute on PSX or on dark pools without executing on another exchange. Members may seek to execute in this manner to interact with resting liquidity in addition to that available on PSX, while also minimizing market impact and transaction fees.

For example, if the National Best Bid/Offer (''NBBO'') is $10.00–$10.01, and PSX, DarkVenueA and ARCA each offer 100 shares at $10.01, a XDRK order to buy 1000 shares at $10.01 IOC will be handled as follows: 100 shares for execution on PSX and 100 shares routed to DarkVenueA simultaneously at $10.01; the remaining 800 shares are not routed and not executed, and cancelled back to the entering participant because it was an IOC order. The order did not route to ARCA because it is not a dark venue. As a second example, if the NBBO is $10.00–$10.01, and PSX, DarkVenueA and ARCA each offer 100 shares at $10.01, a XDRK order to buy 1000 shares at $10.01 DAY will be handled as follows: 100 shares for execution on PSX and 100 shares routed to DarkVenueA simultaneously at $10.01; the remaining 800 shares are posted on the PSX book (because it is a DAY order). Once again, the order did not route to ARCA because it is not a dark venue.

Proposed Rule 3315(a)(1)(A)(ix) will provide that XCST is a routing option under which orders check the System for available shares and simultaneously route to select dark venues and to certain low cost exchanges. If shares remain un-executed after routing, they

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 242.611.

are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. This strategy is also intended to attract market participants who seek to save on trading fees by only executing on the Exchange, on dark venues, or on no cost and low cost exchanges.

For example, if the NBBO is $10.00–$10.01, and PSX, DarkVenueA and ARCA each offer 100 shares at $10.01, a XCST order to buy 1000 shares at $10.01 DAY will be handled as follows: 100 shares for execution on PSX and 100 shares routed to DarkVenueA simultaneously at $10.01; the remaining 800 shares are posted on the PSX book (because it is a DAY order). The order did not route to ARCA because it is neither a dark venue nor a no cost or low cost exchange. As a second example, if the NBBO is $9.90–$10.00, with BYX offering 100 shares at $10.00 and PSX, DarkVenueA and ARCA each offer 100 shares at $10.01, a XCST order to buy 1000 shares at $10.01 DAY will be handled as follows: 100 shares routed to BYX at $10.00, 100 shares for execution on PSX and 100 shares routed to DarkVenueA simultaneously at $10.01; the remaining shares are posted on the PSX book (because it is a DAY order). The order did not route to ARCA because it is neither a dark venue nor a no cost or low cost exchange.

In all cases, these routing strategies are designed to comply with SEC Rule 611 and the other provisions of Regulation NMS.[4] Accordingly, both XDRK and XCST will honor Protected Quotations within the meaning of Regulation NMS and will not route to any market centers included in their respective routing table at a price inferior to an available Protected Quotation. For example, if the NBBO is $9.90–$10.00, with NYSE offering 100 shares at $10.00 and PSX, DarkVenueA and ARCA each offering 100 shares at $10.01, a XCST order to buy 1000 shares at $10.01 DAY will not be routed because NYSE's Protected Quotation is not included in the routing table, by definition, for XCST.

The Exchange will notify its membership of the implementation date, which the Exchange expects will be on or about the 30th day after this filing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(5) of the Act,[6] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, because PSX will be better able to serve its customers and compete with other markets by offering additional optional routing services. Specifically, the two new routing strategies will provide market participants with greater flexibility in routing orders without developing order routing strategies on their own.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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, as amended. PSX competes with many exchanges and other execution venues for the execution of orders in equities. Market participants can choose where to send their orders. Accordingly, the proposal is pro-competitive in that it affords the Exchange the opportunity to compete with other exchanges in terms of offering new routing strategies.

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 subparagraph (f)(6) of Rule 19b–4 thereunder.[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. The Exchange has provided 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.

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-Phlx–2013–08 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-Phlx–2013–08. 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

[4] 17 CFR 242.611.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–08 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03097 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68846; File No. SR–FINRA–2013–009]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the ''Late Report—T+N'' Fee Applicable to Members Using the FINRA/Nasdaq Trade Reporting Facility

February 6, 2013.

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 February 1, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 7620A to modify the ''Late Report—T+N'' fee applicable to members that use the FINRA/Nasdaq Trade Reporting Facility (the ''FINRA/Nasdaq TRF'').

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

7000. CLEARING, TRANSACTION AND ORDER DATA REQUIREMENTS, AND FACILITY CHARGES

* * * * *

7600. CHARGES FOR TRADE REPORTING FACILITY SERVICES

7600A. CHARGES FOR FINRA/NASDAQ TRADE REPORTING FACILITY SERVICES

* * * * *

7620A. FINRA/Nasdaq Trade Reporting Facility Reporting Fees

The following charges shall be paid by participants for use of the FINRA/Nasdaq Trade Reporting Facility. In the case of trades where the same market participant is on both sides of a trade report, applicable fees assessed on a ''per side'' basis will be assessed once, rather than twice, and the market participant will be assessed applicable Non-Comparison/Accept (Non-Match/Compare) Charges as the Executing Party side only.

Non-Comparison/Accept (Non-Match/Compare) Charges:	
Tape	Daily Average Number of Media/Executing Party Trades During the Month Needed to Qualify for Cap
A	2500
B	2500
C	2500

Media/Executing Party

Monthly Charge	Maximum Monthly Charge if Capped
($0.018) × (Number of Media/Executing Party Reports During the Month).	($0.018) × (Required Daily Average Number of Media/EP Trades for Tape A, B or C) × (Number of Trading Days During the Month)

Non-Media/Executing Party

Monthly Charge	Maximum Monthly Charge if Capped
($0.018) × (Number of Non-Media/Executing Party Reports During the Month).	($0.018) × 2500 for Tape A, B or C × (Number of Trading Days During the Month)

Media/Contra

Monthly Charge	Maximum Monthly Charge if Capped
($0.013) × (Number of Media/Contra Reports During the Month)	($0.013) × 2500 for Tape A, B or C × (Number of Trading Days During the Month)

Non-Media/Contra

Monthly Charge	Maximum Monthly Charge if Capped

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

Non-Comparison/Accept (Non-Match/Compare) Charges:	
($0.013) × (Number of Non-Media/Contra Reports During the Month)	($0.013) × 2500 for Tape A, B or C × (Number of Trading Days During the Month)
Standard Fees:	
Clearing report to transfer a transaction fee charged by one member to another member pursuant to Rule 7230A(h).	$0.03/side
Comparison/Accept	$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares)
Late Report—T+N	$0.288/[side] *trade (charged to the Executing Party)*
Query	$0.50/query
Corrective Transaction Charge	$0.25/Cancel, Error, Inhibit, Kill, or 'No' portion of No/Was transaction, paid by reporting side; $0.25/Break, Decline transaction, paid by each party

* * * Supplementary Material:

.01 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The FINRA/Nasdaq TRF is a facility of FINRA that is operated by The NASDAQ OMX Group, Inc. (''NASDAQ OMX'') and utilizes Automated Confirmation Transaction (''ACT'') Service technology. In connection with the establishment of the FINRA/Nasdaq TRF, FINRA and NASDAQ OMX entered into a limited liability company agreement (the ''LLC Agreement''). Under the LLC Agreement, FINRA, the ''SRO Member,'' has sole regulatory responsibility for the FINRA/Nasdaq TRF. NASDAQ OMX, the ''Business Member,'' is primarily responsible for the management of the FINRA/Nasdaq TRF's business affairs, to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. As such, the Business Member establishes pricing for use of the FINRA/Nasdaq TRF, and such pricing is implemented pursuant to FINRA rules that must be filed with the SEC and be consistent with the Act.[5] In addition, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRF.[6]

Pursuant to Rule 7620A, FINRA members are charged certain fees for trade reporting to the FINRA/Nasdaq TRF. Currently, the FINRA/Nasdaq TRF imposes a ''Late Report—T+N'' fee of $0.288 on each party to a late trade report that is submitted one or more days after trade date (T+N). NASDAQ OMX, as the Business Member, has determined to modify this fee. Under the proposed rule change, the Late Report—T+N fee (which will remain set at $0.288) will be imposed only on the member with the obligation to report the trade under FINRA rules (defined in Rule 7620A as the ''Executing Party'').[7] The responsibility for reporting trades is imposed on only one party to the trade, and as such, NASDAQ OMX, as the Business Member, has determined that the Late Report—T+N trade report fee should only be imposed on one party to the trade as well. The proposed rule change would ensure that the contra party to a trade is not subject to a fee due to late trade reporting by the Executing Party.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change is the date of filing, February 1, 2013.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[8] in general, and with Sections 15A(b)(5) and (6) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. All similarly situated members are subject to the same fee structure, and access to the FINRA/Nasdaq TRF is offered on fair and non-discriminatory terms. FINRA believes that the proposed rule change is reasonable, consistent with an equitable allocation of fees and is not unfairly discriminatory because it will reduce fees imposed on members that are contra parties to a trade that has been reported late on a T+N basis by the Executing Party and eliminate the circumstance where the contra party is charged a fee even though it has no responsibility for the late submission.

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. The proposed rule change will reduce the fees paid by some members, but will not result in a fee increase for any members. Because the price change is not expected to have a significant impact on

[5] Because there are two FINRA Trade Reporting Facilities operated by different exchange Business Members competing for market share (the FINRA/Nasdaq TRF and the FINRA/NYSE TRF), FINRA does not take a position on whether the pricing for one TRF is more favorable or competitive than the pricing for the other TRF.

[6] FINRA notes that the same contractual arrangement is in place for the FINRA/NYSE TRF, with FINRA as the SRO Member and NYSE as the Business Member. The LLC agreements for the FINRA/Nasdaq TRF and the FINRA/NYSE TRF were submitted as part of the rule filings to establish the respective TRFs and can be found in the FINRA Manual.

[7] Rule 7620A defines ''Executing Party (EP)'' as the member with the trade reporting obligation under FINRA rules. Under FINRA Rule 6380A(b), in a trade between a member and non-member or customer, the member has the obligation to report the trade, and in a trade between two members, the member that receives an order for handling or execution or is presented an order against its quote, does not subsequently re-route the order, and executes the transaction, has the obligation to report the trade.

[8] 15 U.S.C. 78*o*–3.

[9] 15 U.S.C. 78*o*–3(b)(5) and (6).

the fees paid by market participants, FINRA does not believe that the change will affect the competitive standing of the FINRA/Nasdaq TRF or members that use the facility to report trades to FINRA.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f)(2) of Rule 19b–4 thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2013–009 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–2013–009. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–2013–009, and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03104 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68853; File No. SR–CHX–2013–03]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending CHX Article 20, Rule 2, Which Provides for, Among Other Things, Trading Pauses in Individual Securities Due to Extraordinary Market Volatility, Extending the Effective Date of the Pilot Until the Earlier of the Initial Date of Operations of the Regulation NMS Plan To Address Extraordinary Market Volatility or February 4, 2014

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2013, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend CHX Article 20, Rule 2, which provides, among other things, for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current schedule expiration date of February 4, 2013, until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014. The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 Exchange proposes to amend CHX Article 20, Rule 2, which provides for, among other things, trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current schedule expiration date of February 4, 2013,[3] until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67573 (August 2, 2012), 77 FR 47479 (August 8, 2012) (SR–CHX–2012–12).

CHX Article 20, Rule 2 requires the Exchange to, among other things, pause trading in an individual security listed on the Exchange if the price moves by a specified percentage as compared to prices of that security in the preceding five-minute period during a trading day, which period is defined as a ''Trading Pause.'' The pilot was developed and implemented as a market-wide initiative by the Exchange and other national securities exchanges in consultation with the Commission staff and is currently applicable to all NMS stocks and specified exchange-traded products.[4]

The extension proposed herein would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility.[5] The Exchange anticipates that the Regulation NMS Plan to Address Extraordinary Market Volatility will not begin initial operations on February 4, 2013 as currently planned, but will begin operations on April 8, 2013.[6] If the Regulation NMS Plan to Address Extraordinary Market Volatility has an initial date of operations of April 8, 2013 or any other date before February 4, 2014, the proposed pilot for trading pauses would expire at that time.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the change proposed herein meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements, which promotes just and equitable principles of trade and removes impediments to, and perfect the mechanism of, a free and open market and a national market system. Additionally, extension of the pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 would allow the pilot to continue to operate without interruption while the Exchange and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot, which contributes to the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes being made to extend the operation of the trading pause pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility, which contributes to the protection of investors and the public interest. Other competing equity exchanges are subject to the same trading pause requirements specified in the Plan. Thus, the proposed changes will not impose any burden on competition while providing trading pause requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the

[4] The Exchange notes that the other national securities exchanges and the Financial Industry Regulatory Authority have adopted the pilot in substantially similar form. *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (File Nos. SR–BATS–2010–014; SR–EDGA–2010–01; SR–EDGX–2010–01; SR–BX–2010–037; SR–ISE–2010–48; SR–NYSE–2010–39; SR–NYSEAmex–2010–46; SR–NYSEArca–2010–41; SR–NASDAQ–2010–061; SRCHX–2010–10; SR–NSX–2010–05; and SR–CBOE–2010–047) and Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025). *See also* Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (File Nos. SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–ISE–2010–66; SR–NASDAQ–2010–079; SR–NYSE–2010–49; SR–NYSEAmex–2010–63; SR–NYSEArca–2010–61; and SR–NSX–2010–08 and Securities Exchange Act Release No. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033). *See also* Securities Exchange Act Release No. 63500 (December 9, 2010), 75 FR 78309 (December 15, 2010) (SR–NYSE–2010–81). A proposal to, among other things, expand the pilot to include all NMS stocks not already included therein was implemented on August 8, 2011. *See also* Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex–2011–32; SR–NYSEArca–2011–26; SR–NSX–2011–06; and SR–Phlx–2011–64).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc).

[6] *See* Letter from Janet McGinness, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated January 17, 2013.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of such 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–CHX–2013–03 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–CHX–2013–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CHX–2013–03 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03187 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 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).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68852; File No. SR–NSX–2013–05]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 11.20B To Extend the Pilot Program Regarding Trading Pauses in Individual Securities Due to Extraordinary Market Volatility

February 6, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2013, National Stock Exchange, Inc. (''NSX®'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NSX Rule 11.20B, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of February 4, 2013, until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NSX Rule 11.20B, which provides for trading pauses in individual securities due to extraordinary market volatility, to extend the effective date of the pilot by which such rule operates from the current scheduled expiration date of February 4, 2013,[3] until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014. The pilot will continue to operate as to individual securities until such security is subject to the Regulation NMS Plan to Address Extraordinary Market Volatility.

NSX Rule 11.20B requires the Exchange to pause trading in an individual security listed on the Exchange if the price moves by a specified percentage as compared to prices of that security in the preceding five-minute period during a trading day. The pilot was developed and implemented as a market-wide initiative by the Exchange and other national securities exchanges in consultation with the Commission staff and is currently applicable to all NMS stocks and specified exchange-traded products.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67556 (August 1, 2012), 77 FR 47156 (August 7, 2012) (SR–NYSE–2012–31).

[4] The Exchange notes that the other national securities exchanges and the Financial Industry

Continued

The extension proposed herein would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility.[5] The Exchange anticipates that the Regulation NMS Plan to Address Extraordinary Market Volatility will not begin initial operations on February 4, 2013 as currently planned, but will be delayed. If the Regulation NMS Plan to Address Extraordinary Market Volatility has an initial date of operations before February 4, 2014, the proposed pilot for trading pauses would expire at that time.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6 of the Act,[6] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change furthers the objective of Section 6(b)(5) of the Act[8] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the change proposed herein meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements, which promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system. Additionally, extension of the pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 would allow the pilot to continue to operate without interruption while the Exchange and the Commission further assess the effect of the pilot on the marketplace or whether other initiatives should be adopted in lieu of the current pilot, which contributes to the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are being made to extend the operation of the trading pause pilot until the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014 and would allow the pilot to continue to operate without interruption until implementation of the Regulation NMS Plan to Address Extraordinary Market Volatility, which contributes to the protection of investors and the public interest. Other competing equity exchanges are subject to the same trading pause requirements specified in the Plan. Thus, the proposed changes will not impose any burden on competition while providing trading pause requirements specified in the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–(f)(6) thereunder.[10] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–(f)(6)(iii) thereunder.

A proposed rule change filed under Rule19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may

Regulatory Authority have adopted the pilot in substantially similar form. *See* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (File Nos. SR–BATS–2010–014; SR–EDGA–2010–01; SR–EDGX–2010–01; SR–BX–2010–037; SR–ISE–2010–48; SR–NYSE–2010–39; SR–NYSEAmex–2010–46; SR–NYSEArca–2010–41; SR–NASDAQ–2010–061; SR–CHX–2010–10; SR–NSX–2010–05; and SR–CBOE–2010–047) and Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025). *See also* Securities Exchange Act Release No. 62884 (September 10, 2010), 75 FR 56618 (September 16, 2010) (File Nos. SR–BATS–2010–018; SR–BX–2010–044; SR–CBOE–2010–065; SR–CHX–2010–14; SR–EDGA–2010–05; SR–EDGX–2010–05; SR–ISE–2010–66; SR–NASDAQ–2010–079; SR–NYSE–2010–49; SR–NYSEAmex–2010–63; SR–NYSEArca–2010–61; and SR–NSX–2010–08 and Securities Exchange Act Release No. 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033). *See also* Securities Exchange Act Release No. 63500 (December 9, 2010), 75 FR 78309 (December 15, 2010) (SR–NYSE–2010–81). A proposal to, among other things, expand the pilot to include all NMS stocks not already included therein was implemented on August 8, 2011. *See* Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (File Nos. SR–BATS–2011–016; SR–BYX–2011–011; SR–BX–2011–025; SR–CBOE–2011–049; SR–CHX–2011–09; SR–EDGA–2011–15; SR–EDGX–2011–14; SR–FINRA–2011–023; SR–ISE–2011–028; SR–NASDAQ–2011–067; SR–NYSE–2011–21; SR–NYSEAmex–2011–32; SR–NYSEArca–2011–26; SR–NSX–2011–06; and SR–Phlx–2011–64).

[5] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–(f)(6). In addition, Rule 19b–(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] 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).

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–NSX–2013–05 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–NSX–2013–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NSX–2013–05 and should be submitted on or before March 5, 2013

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03190 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68848; File No. SR–NYSEARCA–2013–09]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

February 6, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 29, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') to (i) eliminate the Tape B Step Up Tier and (ii) modify the rebate for Mid-Point Passive Liquidity (''MPL'') Orders that provide liquidity in Tape C Securities. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to (i) eliminate the Tape B Step Up Tier and (ii) modify the rebate for MPL Orders that provide liquidity in Tape C Securities. The Exchange proposes to implement the fee changes on February 1, 2013.

The Tape B Step Up Tier currently provides for a $0.0026 per share fee for orders of qualifying ETP Holders that take liquidity from the Book in Tape B Securities. The Exchange has determined to eliminate the Tape B Step Up Tier because it generally has not incentivized ETP Holders to submit additional liquidity in Tape B Securities as intended.[4]

Currently, under Tier 1,[5] Tier 2,[6] and the Basic Rates[7] of the Fee Schedule, the Exchange offers a $0.0015 credit per share for MPL Orders[8] that provide

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 66568 (March 9, 2012), 77 FR 15819, 15822 (March 16, 2012) (SR–NYSEArca–2012–17).

[5] Tier 1 rates are available to ETP Holders and Market Makers that provide liquidity an average daily share volume per month of 0.70% or more of the US consolidated average daily volume (''CADV'') or (2) that (a) provide liquidity an average daily share volume per month of 0.15% or more of the US CADV and (b) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions (including all account types) in Penny Pilot issues on NYSE Arca Options of at least 100,000 contracts, of which at least 25,000 contracts must be for the account of a market maker.

[6] Tier 2 rates are available to ETP Holders and Market Makers that provide liquidity an average daily share volume per month of 0.30% or more, but less than 0.70% of the US CADV.

[7] Basic Rates are applicable when tier rates do not apply. The Exchange notes that the Active Tape C Securities are erroneously referred to as the ''Most Active Tape C Securities'' in the Basic Rate section of the Fee Schedule. *See* SR–NYSEArca–2012–104, Exhibit 5, at 26, available at *http://www.sec.gov/rules/sro/nysearca/2012/34-67986-ex5.pdf.* The changes proposed herein will remove the erroneous reference.

[8] *See* Rules 7.31(h)(4) and (5). MPL Orders allow for additional opportunities for passive interaction with trading interest on the Exchange and are designed to offer potential price improvement to incoming marketable orders submitted to the Exchange. *See* Securities Exchange Act Release No. 67986 (October 4, 2012), 77 FR 61803 (October 11, 2012) (SR–NYSEArca–2012–104) (''2012 Release'').

liquidity in Tape C Securities, except that for certain Tape C Securities deemed ''Active Tape C Securities,'' a $0.0025 credit per share is offered. The Active Tape C Securities are:

Company name	Symbol
Cisco Systems, Inc.	CSCO
Dell Inc.	DELL
Facebook, Inc.	FB
Intel Corporation	INTC
Microsoft Corporation	MSFT
Micron Technology Inc.	MU
Oracle Corporation	ORCL
Research In Motion Limited	RIMM
SIRIUS XM Radio Inc.	SIRI
Zynga, Inc.	ZNGA

The Exchange proposes to remove the distinction between MPL Orders that provide liquidity in Active Tape C Securities and MPL Orders that provide liquidity in other Tape C Securities by eliminating the Active Tape C Securities MPL Order credit. At the same time, the Exchange proposes to increase the existing credits for MPL Orders that provide liquidity in all Tape C Securities from $0.0015 to $0.0020 per share. The Exchange believes that the proposed change will increase the liquidity available on the Exchange in Tape C Securities generally, and therefore could increase the potential price improvement to incoming marketable orders submitted to the Exchange in Tape C Securities.

The proposed change is not otherwise intended to address any other problem, and the Exchange is not aware of any significant problem that the affected market participants would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that eliminating the Tape B Step Up Tier is reasonable because such tier has generally not incentivized ETP Holders to submit additional liquidity in Tape B Securities as intended.[11] The Exchange believes that removal of the Tape B Step Up Tier is equitable and not unfairly discriminatory because it would be eliminated for all ETP Holders.

In addition, the Exchange believes that the proposed change to have the same credit apply to liquidity providing MPL Orders in Active Tape C Securities and MPL Orders that provide liquidity in other Tape C Securities is reasonable because the Exchange believes that it will incentivize ETP Holders to submit more liquidity providing MPL Orders to the Book for all Tape C Securities, thereby increasing the liquidity available on the Exchange in Tape C Securities generally, and therefore could increase the potential price improvement and benefit all market participants. The Exchange also believes the change to the MPL Order credit in Tape C Securities is reasonable because the $0.0025 credit for just the Active Tape C Securities has not generally incentivized ETP Holders to submit additional liquidity in Active Tape C Securities as intended.[12] The Exchange, however, believes that that the increased $0.0020 MPL credit in all Tape C Securities will have the desired effect of incentivizing ETP holders to increase liquidity in Tape C Securities because ETP Holders will not be limited to Active Tape C Securities only to receive the higher MPL credit. The Exchange believes the proposed change also is equitable and not unfairly discriminatory because it will apply uniformly to all ETP Holders and all MPL Orders in Tape C Securities will be eligible for the credit.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed change reflects this competitive environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the removal of the Tape B Step Up Tier will not impose a burden on competition because the tier will be removed in its entirety and generally has not encouraged liquidity as intended. In addition, because the Tape B Step Up Tier did not operate as intended—which was to increase liquidity in Tape B Securities—the Exchange does not believe that firms will be adversely affected as they generally were not availing themselves of that tier in any event. Eliminating the Active Tape C Securities MPL Order credit and replacing it with a MPL Order credit in all Tape C Securities will not impose a burden in competition because now all Tape C Securities will eligible for the credit, albeit at a slightly reduced level than for Active Tape C Securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[13] of the Act and subparagraph (f)(2) of Rule 19b–4[14] thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–09 on the subject line.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] *See* note 4, *supra.*

[12] *See* 2012 Release, *supra* note 8.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 15 U.S.C. 78s(b)(2)(B).

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–09 and should be submitted on or before March 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–03105 Filed 2–11–13; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2012–0071]

Social Security Ruling, SSR 13–1p; Titles II and XVI: Agency Processes for Addressing Allegations of Unfairness, Prejudice, Partiality, Bias, Misconduct, or Discrimination by Administrative Law Judges (ALJs); Correction

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling; Correction.

SUMMARY: The Social Security Administration published a document in the **Federal Register** of January 29, 2013, in FR Doc. 2013–01833, on page 6168, in the third column; correct the **DATES** caption to read:

DATES: *Effective Date:* February 28, 2013.

Paul Kryglik,

Director, Office of Regulations, Social Security Administration.

[FR Doc. 2013–03126 Filed 2–11–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8185]

Call for Expert Reviewers to the U.S. Government Review of the 2013 Supplement to the 2006 Intergovernmental Panel on Climate Change (IPCC) Guidelines for National Greenhouse Gas Inventories: Wetlands.

Summary: The United States Global Change Research Program, in cooperation with the Department of State, request expert review of the Second Order Draft of the *2013 Supplement to the 2006 Intergovernmental Panel on Climate Change (IPCC) Guidelines for National Greenhouse Gas Inventories: Wetlands.*

The United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) established the IPCC in 1988. In accordance with its mandate and as reaffirmed in various decisions by the Panel, the major activity of the IPCC is to prepare comprehensive and up-to-date assessments of policy-relevant scientific, technical, and socio-economic information for understanding the scientific basis of climate change, potential impacts, and options for mitigation and adaptation. Among the IPCC's products is a series of guidance documents for the preparation of national greenhouse gas inventories, which provide guidance to periodic submissions by Parties to the U.N. Framework Convention on Climate Change (UNFCCC). These reports are developed in accordance with procedures for preparation and review of IPCC documents, which can be found at the following Web sites:

http://www.ipcc.ch/organization/organization_review.shtml#.UEY0LqSe7x8

http://ipcc.ch/organization/organization_procedures.shtml.

Following an invitation from the UNFCCC to ''undertake further methodological work on wetlands, focusing on the rewetting and restoration of peatland, with a view to filling in the gaps in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories'' (FCCC/SBSTA/2010/13, paragraph 72), an IPCC Expert Meeting on Scoping Additional Guidance on Wetlands was held, on 30 March–1 April 2011 and its proposal was presented to the 33rd session of the IPCC held in Abu Dhabi, United Arab Emirates, 10–13 May 2011. In response to the outcome of the meeting, the Task Force on National Greenhouse Gas Inventories (TFI) is developing additional national-level inventory methodological guidance on wetlands, including default emission factor values, with the aim to fill gaps in the coverage of wetlands and organic soils in the 2006 IPCC Guidelines.

The *2013 Supplement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories: Wetlands* (the *Wetlands Supplement*) provides methods for estimating anthropogenic emissions and removals of greenhouse gases from wetlands (lands that are saturated by water for all or part of the year), lands with organic soils, and other drained lands. Specifically, the guidance in the *Wetlands Supplement* covers inland peatlands and other wetlands on mineral soils; coastal wetlands including mangroves, coastal marshes and sea grass; as well as constructed wetlands for wastewater treatment. It does not include methodologies for flooded lands. It supplements the guidance contained in the *2006 IPCC Guidelines for National Greenhouse Gas Inventories* (the *2006 IPCC Guidelines*) which provides methodologies for estimating national anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol. While the *2006 IPCC Guidelines* include a chapter on wetlands, this chapter is incomplete and does not cover all wetlands types. It does not characterize all of the significant activities occurring on these wetlands e.g., rewetting of peatlands. The *2006 IPCC Guidelines* only provide guidance on peatlands drained and managed for peat extraction and some guidance for drained organic soils.

As part of the U.S. Government Review of the Second Order Draft of the *2013 Supplement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories: Wetlands,* the U.S. Government is soliciting comments from experts in relevant fields of expertise (The Table of Contents for the

[16] 17 CFR 200.30–3(a)(12).

TFI contribution can be viewed here: *http://www.ipcc-nggip.iges.or.jp/home/docs/1105_WetlandsToC.pdf*).

Beginning on 11 February 2013, experts may register and access the Second Order Draft of the report to contribute to the U.S. Government review at: review.globalchange.gov. To be considered for inclusion in the U.S. Government submission, comments must be received by 22 March 2013. The United States Global Change Research Program will coordinate collection and compilation of U.S. expert comments to develop a consolidated U.S. Government submission, which will be provided to the IPCC by 7 April 2013. Instructions for review and submission of comments are available at: *review.globalchange.gov.*

Experts may choose to provide comments directly through the IPCC's Expert Review process, which occurs in parallel with the U.S. Government Review. More information on the IPCC's comment process can be found at *http://www.ipcc.ch/activities/activities.shtml* and *http://www.ipcc-nggip.iges.or.jp/forms/wetlandsreview_registration.html.* To avoid duplication, comments submitted for consideration as part of the U.S. Government Review should not also be sent to the IPCC Secretariat through the Expert Review process (and vice versa). Comments to the U.S. government review should be submitted using the web-based system at: *review.globalchange.gov*.

This certification will be published in the **Federal Register**.

Dated: February 6, 2013.

Trigg Talley,

Director, Office of Global Change, Department of State.

[FR Doc. 2013–03251 Filed 2–11–13; 8:45 am]

BILLING CODE 4710–09–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act; Meeting Notice

February 14, 2013

Meeting No. 13–01

The TVA Board of Directors will hold a public meeting on February 14, 2013, in the Missionary Ridge Auditorium of the Chattanooga Office Complex, 1101 Market Street, Chattanooga, Tennessee. The public may comment on any agenda item or subject at a *public listening session* which begins at 8:30 a.m. (ET). Following the end of the public listening session, the meeting will be called to order to consider the agenda items listed below. On-site registration will be available until 15 minutes before the public listening session begins at 8:30 a.m. (ET). Preregistered speakers will address the Board first. TVA management will answer questions from the news media following the Board meeting.

Status: Open.

Agenda

Chairman's Welcome.

Old Business

Approval of minutes of November 15, 2012, and December 10, 2012, Board Meetings.

New Business

1. Report from President and CEO
2. Report of the External Relations Committee
3. Report of the Finance, Rates, and Portfolio Committee
   A. Financial Performance Update
4. Report of the Nuclear Oversight Committee
5. Report of the People and Performance Committee
   A. Corporate Goals
6. Report of the Audit, Risk, and Regulation Committee
7. Board Governance
   A. Committee Membership

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: February 7, 2013.

Ralph E. Rodgers,

General Counsel and Secretary.

[FR Doc. 2013–03285 Filed 2–8–13; 11:15 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice Nashville Interntional Airport, Nashville, TN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by Metropolitan Nashville Airport Authority for Nashville International Airport under the provisions of 49 U.S.C. 47501 et seq. (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements.

DATES: *Effective Date:* The effective date of the FAA's determination on the noise exposure maps is February 4, 2013.

FOR FURTHER INFORMATION CONTACT: Phillip J. Braden, Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, Tennessee 38118, 901–322–8181.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for Nashville International Airport are in compliance with applicable requirements of Title 14 Code of Federal Regulations (CFR) Part 150, effective February 4, 2013. Under 49 U.S.C. section 47503 of the Aviation Safety and Noise Abatement Act (the Act), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of 14 CFR part 150, promulgated pursuant to the Act, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the airport operator has taken or proposes to take to reduce existing noncompatible uses and prevent the introduction of additional noncompatible uses.

The FAA has completed its review of the Noise Exposure Maps and accompanying documentation submitted by Metropolitan Nashville Airport Authority. The documentation that constitutes the ''Noise Exposure Maps'' as defined in Section 150.7 of 14 CFR part 150 includes: ''Figure 2, Nashville International Airport Surrounding Communities p.7; Figure 3, Existing Conditions (2012) Noise Exposure Map; Forecast Condition (2017) Noise Exposure Map; Figure 5, Comparison of Existing (2012) and Forecast (2017) Noise Exposure Maps; Table 4, Runway Details p. 42; Table 5, Modeled Average Daily Aircraft Operations for 2012 p. 45; Table 6, Modeled Average Daily Aircraft Operations for 2017 p. 48; Table 7, Designated Runup Locations and Use Guidance p. 50; Table 8, Modeled Average Daily Runup Operations for

2012 p. 51; Table 9, Modeled Average Daily Runup Operations for 2017 p. 51; Table 10, Modeled Average Daily Runway Use for 2012 and 2017 p. 53; Table 11 RNAV Aircraft List p. 56; Figure 7, Existing North Flow Flight Tracks for Conventional Departures, and Conventional and RNP Arrivals; Figure 8, Existing South Flow Tracks for Conventional Departures, and Conventional and RNP Arrivals; Figure 9, RNAV/RNP North Flow Arrival and Departure Flight Tracks; Figure 10, RNAV/RNP South Flow Arrival and Departure Flight Tracks; Table 12 Modeled Track Utilization for 2012 p. 67; Table 13 Modeled Track Utilization for 2017 p. 74; Appendix A, Noise Terminology; Appendix B, FAA Acceptance of Previous Noise Exposure Maps; Appendix C, May 23, 1989 FAA Record of Approval for 1989 Noise Compatibility Program Submission; Appendix D, Original 2011 and 2016 Noise Exposure Map Forecast Document and FAA Approval; Appendix E, MNAA Submission to FAA and Associated FAA Approval for Revised 2012 and 2017 Forecasts; Appendix F, Request to FAA Regarding Non-Standard Aircraft Type Modeling Substitutions and FAA Response; Appendix G, Documentation Related to Draft Noise Exposure Map Notice, Review, and Comment Opportunities; Appendix H, Documentation Related to September 18, 2012 Public Workshop; Appendix I, Written Comment Received During Consultation''. The FAA has determined that these Noise Exposure Maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on February 4, 2013.

FAA's determination on the airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of 14 CFR part 150. Such determination does not constitute approval of the airport operator's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund the implementation of that Program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under Section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise exposure contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under 14 CFR part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 47503 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of 14 CFR part 150, that the statutorily required consultation has been accomplished.

Copies of the full Noise Exposure Maps documentation and of the FAA's evaluation of the maps are available for examination at the following locations: Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, Tennessee 38118.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Memphis, Tennessee on February 4, 2013.

Phillip J. Braden,

Manager, Memphis Airports District Office.

[FR Doc. 2013–03141 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic 35′, 45′, and 55′ Pre-stressed Spun Concrete Transmission and Distribution Power Poles in the Territory of Guam for synchronization of the existing system. This waiver is a general standing waiver that is applicable to the Territory of Guam.

DATES: The effective date of the waiver is February 13, 2013.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register's** home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate to use non-domestic 35′, 45′, and 55′ Pre-stressed Spun Concrete Transmission and Distribution Power Poles in Territory of Guam.

In accordance with Division A, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2012'' (Pub. L. 112–55), the FHWA published a notice of intent to issue a waiver on its Web site for 35′, 45′, and 55′ Pre-stressed Spun Concrete Transmission and Distribution Power Poles in the Territory of Guam and April 4, 2012, (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=72*) and on and March 5, 2012, (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=66*). The FHWA received three comments in response to the publication for the 35′ poles. One commenter (Allen Ackland) supported the waiver by reference to a comment submitted in response to the publication regarding the 45′ and 55′ poles. Another commenter (Pratip Lahiri) stated that he did not see the actual request to review and therefore could not make a definite statement about the waiver. The third commenter (Robin Shishido) stated that the documentation is same with that of 45′ and 55′ pre-stressed spun concrete transmission and distribution power poles. Also, the FHWA received two

comments in response to the publication for the 45′ and 55′ poles. One commenter (Anthony Charfauros) supported the waiver while the other commenter (replica sunglasses outlet) did not submit a relevant comment. During the 15-day comment periods for these publications, the FHWA conducted additional nationwide review to locate potential domestic manufacturers of 35′, 45′, and 55′ Pre-stressed Spun Concrete Transmission and Distribution Power Poles in the Territory of Guam. Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers of 35′, 45′, and 55′ Pre-stressed Spun Concrete Transmission and Distribution Power Poles and therefore the application of Buy America is waived for such products in the Territory of Guam.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the links provided to Territory of Guam waiver pages noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, (23 CFR 635.410)

Issued on: February 6, 2013,

Victor M. Mendez,

Federal Highway Administrator.

[FR Doc. 2013–03145 Filed 2–11–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 7, 2013.

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 March 14, 2013 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.*

Bureau of the Public Debt (BPD)

OMB Number: 1535–0068.

Type of Review: Extension without change of a currently approved collection.

Title: Regulations Governing Book-entry Treasury Bonds, Notes and Bills.

Abstract: The regulations govern U.S. Treasury bonds, notes, and bills offered exclusively in book-entry form. The collection of information is necessary to service and maintain an investor's book-entry account, and for the issuance, transfer, and payment of securities held in book-entry form.

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 1.

OMB Number: 1535–0091.

Type of Review: Extension without change of a currently approved collection.

Title: Regulations Governing U.S. Treasury Securities—State and Local Government Series.

Abstract: The regulations govern U.S. Treasury bonds, notes and certificates of indebtedness of the States and Local Government Series. The collection of information is necessary to enable Treasury to establish an investor's account, to issue securities, to ensure that an investor meets the certification requirements, to redeem securities either at or prior to maturity, and to obtain necessary documentation where a waiver is involved.

Affected Public: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 434.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2013–03127 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Open Meeting of the Community Development Advisory Board

AGENCY: Community Development Financial Institutions Fund, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the Community Development Advisory Board (the ''Advisory Board''), which provides advice to the Director of the Community Development Financial Institutions Fund (CDFI Fund).

DATES: The next meeting of the Advisory Board will be held from 9:00 a.m. to 3:30 p.m. Eastern Time on Wednesday, February 27, 2013.

ADDRESSES: The Advisory Board meeting will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: The CDFI Fund, Office of Legislative and External Affairs, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 653–0322 (this is not a toll free number). Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's Web site at *http://www.cdfifund.gov.* Public participation will be limited to 50 individuals. Notification of intent to attend the meeting must be made via email to *advisoryboard@cdfi.treas.gov.* The CDFI Fund will send confirmation of attendance to the first 50 individuals who submit notifications of intent.

SUPPLEMENTARY INFORMATION: Section 104(d) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(d)) established the Advisory Board. The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the CDFI Fund (who has been delegated the authority to administer the CDFI Fund) on the policies regarding the activities of the CDFI Fund. The Advisory Board does not advise the CDFI Fund on approving or declining any particular application for monetary or non-monetary awards. The Advisory Board shall meet at least annually.

It has been determined that this document is not a major rule as defined in Executive Order 12291 and therefore

regulatory impact analysis is not required. In addition, this document does not constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The next meeting of the Advisory Board, all of which will be open to the public, will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW, Washington, DC 20005, from 9:00 a.m. to 3:30 p.m. Eastern Time on Wednesday, February 27, 2013. The room will accommodate up to 50 members of the public. Seats are available to members of the public on a first-come, first-served basis.

Because the meeting will be held in a secured federal building, members of the public who desire to attend the meeting must contact the CDFI Fund's Office of Legislative and External Affairs by 5:00 p.m. Eastern Time on Wednesday, February 20, 2013, by email at *AdvisoryBoard@cdfi.treas.gov,* to inform the CDFI Fund of your desire to attend the meeting and to provide the following information which is required to facilitate your entry to the facility: name as it appears on a government issued identification; date of birth; and social security number.

Participation in the discussions at the meeting will be limited to Advisory Board members, Department of the Treasury staff, and certain invited guests. Anyone who would like to have the Advisory Board consider a written statement must submit it to the CDFI Fund's Office of Legislative and External Affairs by 5:00 p.m. Eastern Time on Wednesday, February 20, 2013, by mail to 1500 Pennsylvania Avenue NW, Washington, DC 20220, or by email at *AdvisoryBoard@cdfi.treas.gov.*

The Advisory Board meeting will include a report from the Director on the activities of the CDFI Fund since the last Advisory Board meeting, as well as policy, programmatic, fiscal and legislative initiatives for the fiscal years 2012 and 2013.

Authority: 12 U.S.C. 4703; Chapter X, Pub. L. 104–19, 109 Stat. 237.

Dated: February 6, 2013.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2013–03192 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Information Collection Renewal; Submission for OMB Review

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is extending, without revision, the ''Risk-Based Capital Standards: Advanced Capital Adequacy Framework'' information collection, pending OMB review and action on proposed changes to the collection arising from proposed rules published in the **Federal Register** on August 30, 2012, entitled ''Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action;'' ''Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements;'' and ''Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule; Market Risk Capital Rule.'' The OCC is also giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before March 14, 2013.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Mail Stop 9W–11, Attention: 1557–0234, SW., Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0234, U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by email to: *oira submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Johnny Vilela, or Mary Gottlieb, OCC Clearance Officers, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to renew the following currently approved collection of information without change:

Title: Risk-Based Capital Standards; Advanced Capital Adequacy Framework.

OMB Control No.: 1557–0234.

Frequency of Response: On occasion.

Affected Public: Insured National banks and Federal branches and agencies of foreign banks, Federal savings associations.

Estimated Number of Respondents: 55.

Estimated Total Annual Burden: 821,640 hours.

General Description of Collection: On December 7, 2007, the OCC, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (Agencies) issued the joint final rule entitled ''Risk-Based Capital Standards: Advanced Capital Adequacy Framework'' (Basel II) implementing a new risk-based regulatory capital framework for institutions in the United States. The final rule requires certain large or internationally active banks and bank holding companies to (1) Adopt a written implementation plan, (2) update that plan for any mergers, (3) obtain prior written approvals for the use of certain approaches for determining risk-weighted assets, and (4) make certain public disclosures regarding their capital ratios, their components, and information on implicit support provided to a securitization.

The Agencies, on August 30, 2012, proposed three rules (Basel III) that would amend this collection: Regulatory

Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action (77 FR 52792); Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements (77 FR 52888); and Regulatory Capital Rules: Advanced Approaches Risk-based Capital Rules; Market Risk Capital Rule (77 FR 52978). An information collection request to revise and rename the collection on the basis of the three rules has been acted upon by OMB. However, the OCC is proceeding with the renewal process to ensure continuation of Basel II until Basel III is finalized. The OCC published a 60-day **Federal Register** notice on November 19, 2012. 77 FR 69546. No comments were received. Comments continue to be requested on:

a. Whether the information collections are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

b. The accuracy of the OCC's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collections 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: February 6, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–03135 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Actions Taken Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury Department

ACTION: Notice

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC), is publishing on OFAC's list of Specially Designated Nationals and Blocked Persons (''SDN List'') the names of seventy (70) aircraft which Iran Air has an interest, an entity blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters,'' has an interest. The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on September 19, 2012.

DATES: The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on September 19, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On September 19, 2012, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated 70 entities in which Iran Air whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of designees is below:

Aircraft:

1. EP–CFD; Aircraft Manufacture Date 19 Feb 1993; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11442 (aircraft) [NPWMD] Linked To: IRAN AIR.

2. EP–CFE; Aircraft Manufacture Date 6 Oct 1992; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11422 (aircraft) [NPWMD] Linked To: IRAN AIR.

3. EP–CFH; Aircraft Manufacture Date 24 Feb 1993; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11443 (aircraft) [NPWMD] Linked To: IRAN AIR.

4. EP–CFI; Aircraft Manufacture Date 22 Jan 1996; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11511 (aircraft) [NPWMD] Linked To: IRAN AIR.

5. EP–CFJ; Aircraft Manufacture Date 09 Jan 1996; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11516 (aircraft) [NPWMD] Linked To: IRAN AIR.

6. EP–CFK; Aircraft Manufacture Date 18 Feb 1986; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11518 (aircraft) [NPWMD] Linked To: IRAN AIR.

7. EP–CFL; Aircraft Manufacture Date 28 Jun 1991; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11343 (aircraft) [NPWMD] Linked To: IRAN AIR.

8. EP–CFM; Aircraft Manufacture Date 27 Apr 1992; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11394 (aircraft) [NPWMD] Linked To: IRAN AIR.

9. EP–CFO; Aircraft Manufacture Date 03 Apr 1992; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11389 (aircraft) [NPWMD] Linked To: IRAN AIR.

10. EP–CFP; Aircraft Manufacture Date 24 Jul 1992; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11409 (aircraft) [NPWMD] Linked To: IRAN AIR.

11. EP–CFQ; Aircraft Manufacture Date 02 Dec 1992; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11429 (aircraft) [NPWMD] Linked To: IRAN AIR.

12. EP–CFR; Aircraft Manufacture Date 31 Mar 1992; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11383 (aircraft) [NPWMD] Linked To: IRAN AIR.

13. EP–IAA; Aircraft Construction Number (also called L/N or S/N or F/N) 275; Aircraft Manufacture Date 20 Feb 1976; Aircraft Model B.747SP–86; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 20998 (aircraft) [NPWMD] Linked To: IRAN AIR.

14. EP–IAB; Aircraft Construction Number (also called L/N or S/N or F/N) 278; Aircraft Manufacture Date 22 Apr 1976; Aircraft Model B747SP–86; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 20999 (aircraft) [NPWMD] Linked To: IRAN AIR.

15. EP–IAC; Aircraft Construction Number (also called L/N or S/N or F/N) 307; Aircraft Manufacture Date 16 May 1977; Aircraft Model B.747SP–86; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 21093 (aircraft) [NPWMD] Linked To: IRAN AIR.

16. EP–IAD; Aircraft Construction Number (also called L/N or S/N or F/N) 371; Aircraft Manufacture Date 26 Apr 1979; Aircraft Model B.747SP–86; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 21758 (aircraft) [NPWMD] Linked To: IRAN AIR.

17. EP–IAG; Aircraft Construction Number (also called L/N or S/N or F/N) 291; Aircraft Manufacture Date 21 Jul 1976; Aircraft Model B.747–286B(SCD); Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 21217 (aircraft) [NPWMD] Linked To: IRAN AIR.

18. EP–IAH; Aircraft Construction Number (also called L/N or S/N or F/N) 300; Aircraft Manufacture Date 22 Dec 1976; Aircraft Model B.747–286B(SCD); Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 21218 (aircraft) [NPWMD] Linked To: IRAN AIR.

19. EP–IAI; Aircraft Construction Number (also called L/N or S/N or F/N) 550; Aircraft Manufacture Date 01 Dec 1981; Aircraft Model B.747–286B(SCD); Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 22670 (aircraft) [NPWMD] Linked To: IRAN AIR.

20. EP–IAM; Aircraft Construction Number (also called L/N or S/N or F/N) 381; Aircraft Manufacture Date 20 Jun 1979; Aircraft Model B.747–186B; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 21759 (aircraft) [NPWMD] Linked To: IRAN AIR.

21. EP–IBA; Aircraft Construction Number (also called L/N or S/N or F/N) 723; Aircraft Manufacture Date 21 Dec 1993; Aircraft Model A300B4–605R; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

22. EP–IBB; Aircraft Construction Number (also called L/N or S/N or F/N) 727; Aircraft Manufacture Date 27 Dec 1994; Aircraft Model A300B4–605R; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

23. EP–IBC; Aircraft Construction Number (also called L/N or S/N or F/N) 632; Aircraft Manufacture Date 11 Mar 1992; Aircraft Model A300B4–605R; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

24. EP–IBD; Aircraft Construction Number (also called L/N or S/N or F/N) 696; Aircraft Manufacture Date Apr 1993; Aircraft Model A300B4–605R; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

25. EP–IBG; Aircraft Construction Number (also called L/N or S/N or F/N) 299; Aircraft Manufacture Date 09 Aug 1984; Aircraft Model A300B4–203; Aircraft Operator Iran Air (aircraft) [NPWMD] Linked To: IRAN AIR.

26. EP–IBH; Aircraft Construction Number (also called L/N or S/N or F/N) 302; Aircraft Manufacture Date 14 Nov 1984; Aircraft Model A300B4–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

27. EP–IBI; Aircraft Construction Number (also called L/N or S/N or F/N) 151; Aircraft Manufacture Date 09 Jun 1981; Aircraft Model A300B4–2C; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

28. EP–IBJ; Aircraft Construction Number (also called L/N or S/N or F/N) 256; Aircraft Manufacture Date 18 May 1983; Aircraft Model A300B4–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

29. EP–IBK; Aircraft Construction Number (also called L/N or S/N or F/N) 671; Aircraft Manufacture Date 19 Feb 1993; Aircraft Model A310–304; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

30. EP–IBL; Aircraft Construction Number (also called L/N or S/N or F/N) 436; Aircraft Manufacture Date 02 May 1987; Aircraft Model A310–304; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

31. EP–IBM; Aircraft Construction Number (also called L/N or S/N or F/N) 338; Aircraft Manufacture Date 05 Apr 1985; Aircraft Model A310–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

32. EP–IBN; Aircraft Construction Number (also called L/N or S/N or F/N) 375; Aircraft Manufacture Date 16 Apr 1985; Aircraft Model A310–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

33. EP–IBP; Aircraft Construction Number (also called L/N or S/N or F/N) 370; Aircraft Manufacture Date 06 Jan 1986; Aircraft Model A310–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

34. EP–IBQ; Aircraft Construction Number (also called L/N or S/N or F/N) 389; Aircraft Manufacture Date 20 Jan 1986; Aircraft Model A310–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

35. EP–IBS; Aircraft Construction Number (also called L/N or S/N or F/N) 80; Aircraft Manufacture Date 13 Feb 1980; Aircraft Model A300B2–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

36. EP–IBT; Aircraft Construction Number (also called L/N or S/N or F/N) 185; Aircraft Manufacture Date 09 Mar 1982; Aircraft Model A300B2–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

37. EP–IBV; Aircraft Construction Number (also called L/N or S/N or F/N) 187; Aircraft Manufacture Date 23 Mar 1982; Aircraft Model A300B2–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

38. EP–IBZ; Aircraft Construction Number (also called L/N or S/N or F/N) 226; Aircraft Manufacture Date 13 Dec

1982; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

39. EP–ICD; Aircraft Construction Number (also called L/N or S/N or F/N) 712; Aircraft Manufacture Date 15 Sep 1988; Aircraft Model B.747–21AC; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 24134 (aircraft) [NPWMD] Linked To: IRAN AIR.

40. EP–ICE; Aircraft Construction Number (also called L/N or S/N or F/N) 139; Aircraft Manufacture Date 11 Mar 1981; Aircraft Model A300B4–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

41. EP–ICF; Aircraft Construction Number (also called L/N or S/N or F/N) 173; Aircraft Manufacture Date 14 Dec 1981; Aircraft Model A300B4–203; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

42. EP–IDA; Aircraft Manufacture Date 12 Jun 1990; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11292 (aircraft) [NPWMD].

43. EP–IDD; Aircraft Manufacture Date 31 Oct 1990; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11294 (aircraft) [NPWMD] Linked To: IRAN AIR.

44. EP–IDF; Aircraft Manufacture Date 07 Nov 1990; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11298 (aircraft) [NPWMD] Linked To: IRAN AIR.

45. EP–IDG; Aircraft Manufacture Date 30 Jan 1991; Aircraft Model F.28–0100; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 11302 (aircraft) [NPWMD] Linked To: IRAN AIR.

46. EP–IEB; Aircraft Construction Number (also called L/N or S/N or F/N) 575; Aircraft Manufacture Date 26 Jan 1996; Aircraft Model A320–232; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

47. EP–IEC; Aircraft Construction Number (also called L/N or S/N or F/N) 857; Aircraft Manufacture Date 18 Jun 1998; Aircraft Model A320–232; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

48. EP–IED; Aircraft Construction Number (also called L/N or S/N or F/N) 345; Aircraft Manufacture Date 18 Jun 1992; Aircraft Model A320–212; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

49. EP–IEE; Aircraft Construction Number (also called L/N or S/N or F/N) 303; Aircraft Manufacture Date 14 Feb 1992; Aircraft Model A320–211; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

50. EP–IEF; Aircraft Construction Number (also called L/N or S/N or F/N) 312; Aircraft Manufacture Date 05 Mar 1992; Aircraft Model A320–211; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

51. EP–IEG; Aircraft Construction Number (also called L/N or S/N or F/N) 2054; Aircraft Manufacture Date 06 Jun 2003; Aircraft Model A320–211; Aircraft Operator IRAN AIR (aircraft) [NPWMD] Linked To: IRAN AIR.

52. EP–IRK; Aircraft Construction Number (also called L/N or S/N or F/N) 541; Aircraft Manufacture Date 04 Dec 1966; Aircraft Model B.707–321C; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 19267 (aircraft) [NPWMD] Linked To: IRAN AIR.

53. EP–IRL; Aircraft Construction Number (also called L/N or S/N or F/N) 832; Aircraft Manufacture Date 15 Dec 1969; Aircraft Model B.707–386C; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 20287 (aircraft) [NPWMD] Linked To: IRAN AIR.

54. EP–IRM; Aircraft Construction Number (also called L/N or S/N or F/N) 839; Aircraft Manufacture Date 04 Mar 1970; Aircraft Model B.707–386C; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 20288 (aircraft) [NPWMD] Linked To: IRAN AIR.

55. EP–IRN; Aircraft Construction Number (also called L/N or S/N or F/N) 866; Aircraft Manufacture Date 18 Apr 1973; Aircraft Model B.707–386C; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 20741 (aircraft) [NPWMD] Linked To: IRAN AIR.

56. EP–IRR; Aircraft Construction Number (also called L/N or S/N or F/N) 1052; Aircraft Manufacture Date 24 Jun 1974; Aircraft Model B.727–286; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 20946 (aircraft) [NPWMD] Linked To: IRAN AIR.

57. EP–IRS; Aircraft Construction Number (also called L/N or S/N or F/N) 1070; Aircraft Manufacture Date 12 Sep 1974; Aircraft Model B.727–286; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 20947 (aircraft) [NPWMD] Linked To: IRAN AIR.

58. EP–IRT; Aircraft Construction Number (also called L/N or S/N or F/N) 1114; Aircraft Manufacture Date 03 Mar 1975; Aircraft Model B.727–286; Aircraft Operator IRAN AIR; Aircraft Manufacturer's Serial Number (MSN) 21078 (aircraft) [NPWMD] Linked To: IRAN AIR.

59. EP–MDD; Aircraft Construction Number (also called L/N or S/N or F/N) 1959; Aircraft Manufacture Date Jul 1992; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 49852 (aircraft) [NPWMD] Linked To: IRAN AIR.

60. EP–MDE; Aircraft Construction Number (also called L/N or S/N or F/N) 1724; Aircraft Manufacture Date Dec 1990; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 49523 (aircraft) [NPWMD] Linked To: IRAN AIR.

61. UR–BXI; Aircraft Construction Number (also called L/N or S/N or F/N) 2065; Aircraft Manufacture Date Jun 1993; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 53170 (aircraft) [NPWMD] Linked To: IRAN AIR.

62. UR–BXL; Aircraft Construction Number (also called L/N or S/N or F/N) 1548; Aircraft Manufacture Date Jun 1989; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 49512 (aircraft) [NPWMD] Linked To: IRAN AIR.

63. UR–BXM; Aircraft Construction Number (also called L/N or S/N or F/N) 1381; Aircraft Manufacture Date Jan 1988; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 49505 (aircraft) [NPWMD] Linked To: IRAN AIR.

64. UR–CGS; Aircraft Construction Number (also called L/N or S/N or F/N) 1240; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 49425 (aircraft) [NPWMD] Linked To: IRAN AIR.

65. UR–CGT; Aircraft Construction Number (also called L/N or S/N or F/N) 1241; Aircraft Model MD–82; Aircraft Operator Iran Air Tours; Aircraft Manufacturer's Serial Number (MSN) 49428 (aircraft) [NPWMD] Linked To: IRAN AIR.

66. UR–CHW; Aircraft Construction Number (also called L/N or S/N or F/N) 1514; Aircraft Manufacture Date Mar 1989; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 49510 (aircraft) [NPWMD] Linked To: IRAN AIR.

67. UR–CHX; Aircraft Construction Number (also called L/N or S/N or F/N) 2010; Aircraft Manufacture Date Jul 1992; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft

Manufacturer's Serial Number (MSN) 53162 (aircraft) [NPWMD] Linked To: IRAN AIR.

68. UR–CHY; Aircraft Construction Number (also called L/N or S/N or F/N) 2067; Aircraft Manufacture Date Jun 1993; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 53171 (aircraft) [NPWMD] Linked To: IRAN AIR.

69. UR–CHZ; Aircraft Construction Number (also called L/N or S/N or F/N) 2063; Aircraft Manufacture Date May 1993; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 53169 (aircraft) [NPWMD] Linked To: IRAN AIR.

70. UR–CJQ; Aircraft Construction Number (also called L/N or S/N or F/N) 1300; Aircraft Manufacture Date Jun 1987; Aircraft Model MD–82; Aircraft Operator IRAN AIR TOURS; Aircraft Manufacturer's Serial Number (MSN) 49502 (aircraft) [NPWMD] Linked To: IRAN AIR.

Dated: September 21, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03177 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Actions Taken Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury Department.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing on OFAC's list of Specially Designated Nationals and Blocked Persons (''SDN List'') the names of two entities, whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.'' The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on September 19, 2012.

DATES: The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on September 19, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On September 19, 2012, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated two entities whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

1. ARMY SUPPLY BUREAU, P.O. Box 3361, Damascus, Syria [SYRIA] [NPWMD].

2. BELVNESHPROMSERVICE, 2 Kazinets Street, Minsk 220099, Belarus [NPWMD].

Dated: September 19, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03173 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Actions Taken Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury Department.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing on OFAC's list of Specially Designated Nationals and Blocked Persons (''SDN List'') the names of four entities and one individual, whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.'' The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on December 20, 2012.

DATES: The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on December 20, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile

through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On December 20, 2012, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated four entities and one individual, whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

1. CHEMICAL INDUSTRIES & DEVELOPMENT OF MATERIALS GROUP (a.k.a. CHEMICAL GROUP; a.k.a. CHEMICAL INDUSTRIES GROUP; a.k.a. CIDMG), P.O. Box 19585/311, Tehran, Iran, Tehran, Iran; Pasdaran Street, Tehran 19585311, Iran; Khavarah Road Km 35, Parchin, Iran; Zarrin Shah, P.O. Box 81465–363, Esfahan, Iran; P.O. Box 16765–368, Department 146–42, Parchin, Iran [NPWMD] [IFSR].

2. MARINE INDUSTRIES ORGANIZATION, Pasdaran Av., PO Box 19585/777, Tehran, Iran [NPWMD] [IFSR].

3. ESBATI, Mostafa (individual), DOB: July 17, 1961; Passport Number: D9004869 [NPWMD] [IFSR].

4. SAD IMPORT EXPORT COMPANY, Haftom Tir Square, South Mofteh Ave., PO Box 1584864813, Tehran, Iran [NPWMD] [IFSR].

5. DOOSTAN INTERNATIONAL COMPANY, 16 (former 14) Fajr Street, Ostad Motahari Avenue, Tehran 15875–4649, Iran [NPWMD] [IFSR].

Dated: December 20, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03171 Filed 2–11–13; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Actions Taken Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury Department.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing on OFAC's list of Specially Designated Nationals and Blocked Persons (''SDN List'') the names of four entities, whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.'' The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on November 8, 2012.

DATES: The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on November 8, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined

by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On November 8, 2012, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated four entities whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

1. BAQIYATTALLAH UNIVERSITY OF MEDICAL SCIENCES (a.k.a. BAGHIATOLLAH MEDICAL SCIENCES UNIVERSITY; a.k.a. BAGHYATOLLAH MEDICAL SCIENCES UNIVERSITY; a.k.a. BAGIATOLLAH MEDICAL SCIENCES UNIVERSITY; a.k.a. BAQIATOLLAH MEDICAL SCIENCES UNIVERSITY; a.k.a. BAQIYATALLAH MEDICAL SCIENCES UNIVERSITY; a.k.a. BAQIYATALLAH UNIVERSITY OF MEDICAL SCIENCES; a.k.a. BAQYATOLLAH MEDICAL SCIENCES UNIVERSITY), Vanak Square, Molla-Sadra Avenue, Box number: 19945, Tehran, Iran; Web site http://www.bmsu.ac.ir/[NPWMD] [IRGC] [IFSR].

2. NATIONAL IRANIAN OIL COMPANY (a.k.a. NIOC), National Iranian Oil Company Building, Taleghani Avenue, Hafez Street, Tehran, Iran; Web site www.nioc.ir [NPWMD] [IFSR].

3. IMAM HOSSEIN UNIVERSITY (a.k.a. EMAM HOSEYN COMPREHENSIVE UNIVERSITY; a.k.a. IHU; a.k.a. IMAAM HOSSEIN UNIVERSITY; a.k.a. IMAM HOSEYN UNIVERSITY; a.k.a. IMAM HOSSEIN UNIVERSITY COMPLEX; a.k.a. IMAM HUSSEIN UNIVERSITY; a.k.a. UNIVERSITY OF IMAM HOSEYN), Near Fourth Square, Tehran Pars, Shahid Babaie Highway, near Hakimiyeh and Mini-city, Tehran, Iran; Kilometer 11, Shahid Babaei Highway, Tehran, Iran; Web site www.ihu.ac.ir [NPWMD] [IRGC] [IFSR].

4. TEHRAN GOSTARESH COMPANY PJS, No. 24, 5th Alley, Khaled Eslamboli Street, Tehran 1513643811, Iran [NPWMD] [IRGC] [IFSR].

Dated: November 8, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03175 Filed 2–11–13; 8:45 am]

BILLING CODE 4811–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of one foreign individual and two foreign entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182). In addition, OFAC is publishing the name of three U.S. entities that have been identified as blocked property pursuant to the Kingpin Act.

DATES: The designation by the Director of OFAC of one foreign individual and two foreign entities and the identification of three U.S. entities as blocked property listed in this notice pursuant to section 805(b) of the Kingpin Act is effective on February 5, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control Department of the Treasury Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (*http://www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On February 5, 2013, the Director of OFAC designated one foreign individual and two foreign entities whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act. In addition, the Director of OFAC also identified three U.S. entities as blocked property pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

Individual:

1. GARCIA AYALA, Filemon, C Constitucion # 32, Col Rio Grande, Rio Grande, Zacatecas 98400, Mexico; Matamoros, Tamaulipas, Mexico; Rio Grande, Zacatecas, Mexico; DOB 28 Oct 1948; alt. DOB 26 Oct 1948; alt. DOB 27 Oct 1948; POB Loreto, Zacatecas, Mexico; Passport 160010455 (Mexico) issued 03 May 2002 expires 03 May 2012; C.U.R.P. GAAF481027HZSRYL07 (Mexico); alt. C.U.R.P. GAAF481026HTSRYL08 (Mexico) (individual) [SDNTK].

Entities:

2. INTERNACIONAL & NACIONAL EXCHANGE SERVICES, INC., Pharr, TX; Business Registration Document # 801199276 (Texas); Tax ID No. 32040757414 [SDNTK].

3. PRODIRA CASA DE CAMBIO, ACTIVIDAD AUXILIAR DEL CREDITO S.A. DE C.V., Blvd. La Florida 3–A, Colonia La Florida, Guadalupe, Zacatecas 98618, Mexico; RFC PCC031010989 (Mexico) issued 18 Dec 2003 [SDNTK].

4. PRODIRA S.A.DE C.V., CASA DE CAMBIO, ACTIVIDAD DEL CREDITO (a.k.a. PRODIRA CASA DE CAMBIO INCORPORATED), Pharr, TX; Business Registration Document # 801041970 (Texas); Tax ID No. 32038179357 [SDNTK].

5. PRODIRA, INC., Aurora, CO; Phoenix, AZ; Des Moines, IA; Pharr, TX; Business Registration Document # F–853615–0 (Arizona); alt. Business Registration Document # 20011210699 (Colorado); alt. Business Registration Document # 335187 (Iowa); alt. Business Registration Document # 148693800 (Texas); Tax ID No. 17428803666 [SDNTK].

6. TRASTREVA S.A. DE C.V., Av. La Florida 3, La Florida, Guadalupe, Zacatecas 98610, Mexico; Cedula No. DLC/P/152/2011 (Mexico); R.F.C. TRA0010109E4 (Mexico) [SDNTK].

Dated: February 5, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03172 Filed 2–11–13; 8:45 am]

BILLING CODE 4811–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Identification and Blocking of Aircraft Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury Department.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing identifying information relating to forty-seven (47) aircraft detailed below, which OFAC has determined to be property in which Mahan Air or Yas Air, persons designated as Specially Designated Global Terrorists (''SDGTs'') pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'' (the ''Order''), have an interest, and which therefore are blocked pursuant to the Order.

DATES: The identification pursuant to the Order by the Director of OFAC of the 47 aircraft identified in this notice was publicly announced, and identifying information relating to the aircraft was added to OFAC's List of Specially Designated Nationals and Blocked Persons (''SDN List''), on September 19, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information regarding sanctions programs administered by OFAC is available via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of, *inter alia,* persons determined by the Secretary of the Treasury, in consultation with the Departments of State, Homeland Security and Justice: to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order; or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order. The Global Terrorism Sanctions Regulations, 31 CFR part 594, implement the Order and delegate to the Director of OFAC the Secretary of the Treasury's authorities pursuant thereto. 31 CFR 594.802.

On October 12, 2011, the Director of OFAC, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, designated Mahan Air as an SDGT pursuant to the Order. On March 27, 2012, the Director of OFAC, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, designated Yas Air as an SDGT pursuant to the Order.

On September 19, 2012, the Director of OFAC, identified the 47 aircraft, whose identifying information is detailed below, as property in which SDGTs Mahan Air or Yas Air have an interest, which therefore is blocked pursuant to the Order.

The listing for these aircraft is as follows:

Aircraft

1. EK–30064; Aircraft Construction Number (also called L/N or S/N or F/N) 464; Aircraft Manufacture Date 17 May 1988; Aircraft Model A300B4–605R; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

2. EP–GOL; Aircraft Construction Number (also called L/N or S/N or F/N) 8305; Aircraft Manufacture Date 1991; Aircraft Model IL–76TD; Aircraft Operator YAS AIR; Aircraft Manufacturer's Serial Number (MSN) 1013409297 (aircraft) [SDGT] Linked To: YAS AIR.

3. EP–GOM; Aircraft Construction Number (also called L/N or S/N or F/N) 8401; Aircraft Manufacture Date 1992; Aircraft Model IL76–TD; Aircraft Operator YAS AIR; Aircraft Manufacturer's Serial Number (MSN) 1023409321 (aircraft) [SDGT] Linked To: YAS AIR.

4. EP–GOQ; Aircraft Construction Number (also called L/N or S/N or F/N) 2006; Aircraft Manufacture Date 1998; Aircraft Model An–74T–200; Aircraft Operator YAS AIR; Aircraft Manufacturer's Serial Number (MSN) 365470991032 (aircraft) [SDGT] Linked To: YAS AIR.

5. EP–GOX; Aircraft Construction Number (also called L/N or S/N or F/N) 2101; Aircraft Manufacture Date 1998; Aircraft Model An–74T–200; Aircraft Operator YAS AIR; Aircraft Manufacturer's Serial Number (MSN) 3654701211048 (aircraft) [SDGT] Linked To: YAS AIR.

6. EP–GOY; Aircraft Construction Number (also called L/N or S/N or F/N) 2105; Aircraft Manufacture Date 2002; Aircraft Model An–74TK–200; Aircraft Operator YAS AIR; Aircraft Manufacturer's Serial Number (MSN) 3654701211058 (aircraft) [SDGT] Linked To: YAS AIR.

7. EP–MHA; Aircraft Construction Number (also called L/N or S/N or F/N) 160; Aircraft Manufacture Date 17 Sep 1981; Aircraft Model A300B2K–3C;

Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

8. EP–MHF; Aircraft Construction Number (also called L/N or S/N or F/N) 55; Aircraft Manufacture Date 01 Mar 1978; Aircraft Model A300B4–103; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

9. EP–MHG; Aircraft Construction Number (also called L/N or S/N or F/N) 204; Aircraft Manufacture Date 29 Jul 1982; Aircraft Model A300B4–203; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

10. EP–MHJ; Aircraft Construction Number (also called L/N or S/N or F/N) 857; Aircraft Manufacture Date 18 Jun 1998; Aircraft Model A320–232; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

11. EP–MHL; Aircraft Construction Number (also called L/N or S/N or F/N) 175; Aircraft Manufacture Date 02 Feb 1982; Aircraft Model A300B4–203; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

12. EP–MHM; Aircraft Construction Number (also called L/N or S/N or F/N) 90; Aircraft Manufacture Date 05 Nov 1980; Aircraft Model A300B2K–3C; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

13. EP–MHO; Aircraft Construction Number (also called L/N or S/N or F/N) 488; Aircraft Manufacture Date 13 Jan 1989; Aircraft Model A310–304; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

14. EP–MHP; Aircraft Construction Number (also called L/N or S/N or F/N) 244; Aircraft Manufacture Date 09 Mar 1983; Aircraft Model A300B2K–3C; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

15. EP–MNA; Aircraft Construction Number (also called L/N or S/N or F/N) 811; Aircraft Manufacture Date 18 Feb 1993; Aircraft Model B.747–422; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 24383 (aircraft) [SDGT] Linked To: MAHAN AIR.

16. EP–MNB; Aircraft Construction Number (also called L/N or S/N or F/N) 740; Aircraft Manufacture Date 20 Jul 1989; Aircraft Model B.747–422; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 24363 (aircraft) [SDGT] Linked To: MAHAN AIR.

17. EP–MNC; Aircraft Construction Number (also called L/N or S/N or F/N) 973; Aircraft Manufacture Date 12 Apr 1993; Aircraft Model B.747–422; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 26879 (aircraft) [SDGT] Linked To: MAHAN AIR.

18. EP–MND; Aircraft Construction Number (also called L/N or S/N or F/N) 632; Aircraft Manufacture Date 23 Jan 1986; Aircraft Model B747–3B3; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 23413 (aircraft) [SDGT] Linked To: MAHAN AIR.

19. EP–MNE; Aircraft Construction Number (also called L/N or S/N or F/N) 641; Aircraft Manufacture Date 14 Apr 1986; Aircraft Model B747–3B3; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 23480 (aircraft) [SDGT] Linked To: MAHAN AIR.

20. EP–MNG; Aircraft Construction Number (also called L/N or S/N or F/N) 401; Aircraft Manufacture Date 02 Feb 1987; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

21. EP–MNH; Aircraft Construction Number (also called L/N or S/N or F/N) 405; Aircraft Manufacture Date 03 Feb 1987; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

22. EP–MNI; Aircraft Construction Number (also called L/N or S/N or F/N) 408; Aircraft Manufacture Date 23 Feb 1987; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

23. EP–MNJ; Aircraft Construction Number (also called L/N or S/N or F/N) 380; Aircraft Manufacture Date 31 Dec 1986; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

24. EP–MNK; Aircraft Construction Number (also called L/N or S/N or F/N) 618; Aircraft Manufacture Date 04 Sep 1991; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

25. EP–MNL; Aircraft Construction Number (also called L/N or S/N or F/N) 623; Aircraft Manufacture Date 23 Oct 1991; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

26. EP–MNM; Aircraft Construction Number (also called L/N or S/N or F/N) 773; Aircraft Manufacture Date 13 Nov 1986; Aircraft Model A300B4–605R; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

27. EP–MNN; Aircraft Construction Number (also called L/N or S/N or F/N) 701; Aircraft Manufacture Date 17 May 1993; Aircraft Model A300B4–605R; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

28. EP–MNO; Aircraft Construction Number (also called L/N or S/N or F/N) 595; Aircraft Manufacture Date 30 Aug 1991; Aircraft Model A310–308; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

29. EP–MNP; Aircraft Construction Number (also called L/N or S/N or F/N) 620; Aircraft Manufacture Date 08 Nov 1991; Aircraft Model A310–308; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

30. EP–MNQ; Aircraft Construction Number (also called L/N or S/N or F/N) 553; Aircraft Manufacture Date 08 Dec 1989; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

31. EP–MNR; Aircraft Construction Number (also called L/N or S/N or F/N) 411; Aircraft Manufacture Date 27 Mar 1987; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

32. EP–MNS; Aircraft Construction Number (also called L/N or S/N or F/N) 414; Aircraft Manufacture Date 17 Apr 1987; Aircraft Model A300B4–603; alt. Aircraft Model MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

33. EP–MNT; Aircraft Construction Number (also called L/N or S/N or F/N) 546; Aircraft Manufacture Date 06 Nov 1989; Aircraft Model A300B4–603; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

34. EP–MNU; Aircraft Construction Number (also called L/N or S/N or F/N) 608; Aircraft Manufacture Date 10 Apr 1991; Aircraft Model A300B4–605R; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

35. EP–MNV; Aircraft Construction Number (also called L/N or S/N or F/N) 567; Aircraft Manufacture Date 03 Jan 1991; Aircraft Model A310–304; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

36. EP–MNX; Aircraft Construction Number (also called L/N or S/N or F/N) 564; Aircraft Manufacture Date 22 Nov 1990; Aircraft Model A310–304; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

37. EP–MOA; Aircraft Construction Number (also called L/N or S/N or F/N) 216; Aircraft Manufacture Date 18 Feb 1993; Aircraft Model B.146–300; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 3216 (aircraft) [SDGT] Linked To: MAHAN AIR.

38. EP–MOB; Aircraft Construction Number (also called L/N or S/N or F/N) 212; Aircraft Manufacture Date 31 Jul 1992; Aircraft Model B.146–300; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 3212 (aircraft) [SDGT] Linked To: MAHAN AIR.

39. EP–MOC; Aircraft Construction Number (also called L/N or S/N or F/N) 158; Aircraft Manufacture Date 18 May

1990; Aircraft Model B.146–300; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 3158 (aircraft) [SDGT] Linked To: MAHAN AIR.

40. EP–MOE; Aircraft Construction Number (also called L/N or S/N or F/N) 129; Aircraft Manufacture Date 24 May 1989; Aircraft Model B.146–300; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 3129 (aircraft) [SDGT] Linked To: MAHAN AIR.

41. EP–MOF; Aircraft Construction Number (also called L/N or S/N or F/N) 149; Aircraft Manufacture Date 19 Dec 1989; Aircraft Model B.146–300; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 3149 (aircraft) [SDGT] Linked To: MAHAN AIR.

42. EP–MOG; Aircraft Construction Number (also called L/N or S/N or F/N) 165; Aircraft Manufacture Date 12 May 1990; Aircraft Model B.146–300; Aircraft Operator MAHAN AIR; Aircraft Manufacturer's Serial Number (MSN) 3165 (aircraft) [SDGT] Linked To: MAHAN AIR.

43. EP–VIP; Aircraft Construction Number (also called L/N or S/N or F/N) 499; Aircraft Manufacture Date 20 Apr 1989; Aircraft Model A310–304; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

44. EX–301; Aircraft Construction Number (also called L/N or S/N or F/N) 524; Aircraft Manufacture Date 27 Sep 1989; Aircraft Model A310–304; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

45. EX–35011; Aircraft Construction Number (also called L/N or S/N or F/N) 838; Aircraft Manufacture Date 28 Aug 2002; Aircraft Model A300B4–622R; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

46. F–OJHH; Aircraft Construction Number (also called L/N or S/N or F/N) 586; Aircraft Manufacture Date 29 Mar 1991; Aircraft Model A310–304; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

47. F–OJHI; Aircraft Construction Number (also called L/N or S/N or F/N) 537; Aircraft Manufacture Date 19 Jan 1990; Aircraft Model A310–304; Aircraft Operator MAHAN AIR (aircraft) [SDGT] Linked To: MAHAN AIR.

Dated: September 21, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03176 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Identification of an entity Pursuant to Executive Order 13582 of August 17, 2011, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria.''

AGENCY: Office of Foreign Assets Control, Treasury Department.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of an entity identified on September 19, 2012, as an entity whose property and interests in property are blocked pursuant to Executive Order 13582 of August 17, 2011, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria.''

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On August 18, 2011, the President issued Executive Order 13582 of August 17, 2011, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria,'' (''the Order'') pursuant to, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701–06). In the Order, the President took additional steps with respect to the national emergency declared in Executive Order 13338 of May 11, 2004.

Section 1 of the Order blocks all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, of the Government of Syria, which is defined to include its agencies, instrumentalities, and controlled entities.

On September 19, 2012, the Director of OFAC identified, pursuant to Section 1 of the Order, an entity whose property and interests in property are blocked. The listing for this entity is below.

Entity:

1. ARMY SUPPLY BUREAU, P.O. Box 3361, Damascus, Syria [SYRIA] [NPWMD]

Dated: September 19, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03174 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Five (5) Individuals as Specially Designated Global Terrorists Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is removing the names of five (5) individuals, whose property and interests in property have been blocked pursuant to Executive Order 13224 of September 23, 2001, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism, from the list of Specially Designated Nationals and Blocked Persons (''SDN List'').

DATES: The removal of these five (5) individuals from the SDN List is effective as of February 5, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC are available from OFAC's web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c, imposing economic sanctions on persons who commit, threaten to commit, or support acts of terrorism. The President identified in

the Annex to the Order various individuals and entities as subject to the economic sanctions. The Order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and (pursuant to Executive Order 13284) the Secretary of the Department of Homeland Security, to designate additional persons or entities determined to meet certain criteria set forth in Executive Order 13224.

The Department of the Treasury's Office of Foreign Assets Control has determined that these individuals should be removed from the SDN List.

The following individuals are removed from the SDN List:

Individuals

1. ALI, Abbas Abdi, Mogadishu, Somalia (individual) [SDGT].

2. MSALAM, Fahid Mohammed Ally (a.k.a. AL-KINI, Usama; a.k.a. ALLY, Fahid Mohammed; a.k.a. MSALAM, Fahad Ally; a.k.a. MSALAM, Fahid Mohammed Ali; a.k.a. MSALAM, Mohammed Ally; a.k.a. MUSALAAM, Fahid Mohammed Ali; a.k.a. SALEM, Fahid Muhamad Ali); DOB 19 Feb 1976; POB Mombasa, Kenya; citizen Kenya (individual) [SDGT].

3. ATWAH, Muhsin Musa Matwalli (a.k.a. ABDEL RAHMAN; a.k.a. ABDUL RAHMAN; a.k.a. AL-MUHAJIR, Abdul Rahman; a.k.a. AL-NAMER, Mohammed K.A.), Afghanistan; DOB 19 Jun 1964; POB Egypt; citizen Egypt (individual) [SDGT].

4. SWEDAN, Sheikh Ahmed Salim (a.k.a. ALLY, Ahmed; a.k.a. SUWEIDAN, Sheikh Ahmad Salem; a.k.a. SWEDAN, Sheikh; a.k.a. SWEDAN, Sheikh Ahmed Salem; a.k.a. ''AHMED THE TALL''; a.k.a. ''BAHAMAD''; a.k.a. ''BAHAMAD, Sheik''; a.k.a. ''BAHAMADI, Sheikh''); DOB 09 Apr 1969; alt. DOB 09 Apr 1960; POB Mombasa, Kenya; citizen Kenya (individual) [SDGT].

5. DARWISH, Sulayman Khalid (a.k.a. ''ABU AL–GHADIYA''), Syria; DOB 1976; alt. DOB circa 1974; POB Outside Damascus, Syria; nationality Syria; Passport 3936712 (Syria); alt. Passport 11012 (Syria) (individual) [SDGT].

The removal of these individuals names from the SDN List is effective as of February 5, 2013. All property and interests in property of the individuals that are in or hereafter come within the United States or the possession or control of United States persons are now unblocked.

Dated: February 5, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–03170 Filed 2–11–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–GS(D)

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 Form 706–GS(D), Generation-Skipping Transfer Tax Return for Distributions.

DATES: Written comments should be received on or before April 15, 2013 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 the form and instructions should be directed to Katherine Dean, at (202) 622–3186, or at Internal Revenue Service, room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generation-Skipping Transfer Tax Return for Distributions.

OMB Number: 1545–1144.

Form Number: 706–GS(D).

Abstract: Form 706–GS(D) is used by persons who receive taxable distributions from a trust to compute and report the generation-skipping transfer tax imposed by Internal Revenue Code section 2601. IRS uses the information to verify that the tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 59 minutes.

Estimated Total Annual Burden Hours: 980.

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.

Approved: January 29, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–03120 Filed 2–11–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

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 deductions for transfers of property.

DATES: Written comments should be received on or before April 15, 2013 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 the regulations should be directed to Katherine Dean a at Internal Revenue Service, room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3186, or through the Internet at *katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Deductions for Transfers of Property.

OMB Number: 1545–1448. *Regulation Project Number:* EE–81–88.

Abstract: Abstract Section 1.83–6(a) of the regulation provides that when property is transferred in connection with the performance of services, the recipient of service may claim a deduction for the amount included as compensation in the gross income of the service provider. The service provider will be deemed to have included an amount in gross income if the service recipient provides a timely Form W–2 or 1099, as appropriate.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

The estimated annual burden of reporting will be reflected in the reporting requirements for Forms W–2 and 1099–MISC.

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.

Approved: January 29, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–03090 Filed 2–11–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

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 debt instruments with original issue discount; contingent payments; anti-abuse rule.

DATES: Written comments should be received on or before April 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Debt Instruments With Original Issue Discount; Contingent Payments; Anti-Abuse Rule.

OMB Number: 1545–1450.

Regulation Project Number: FI–59–91.

Abstract: This regulation relates to the tax treatment of debt instruments that provide for one or more contingent payments. The regulation also treats a debt instrument and a related hedge as an integrated transaction. The regulation provides general rules, definitions, and reporting and recordkeeping requirements for contingent payment debt instruments and for integrated debt instruments.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and state, local, or tribal governments.

Estimated Number of Respondents: 180,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 89,000.

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.

Approved: January 29, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–03087 Filed 2–11–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2009–XX (NOT–151370–08)

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 Notice 2009–XX, Credit for Carbon Dioxide Sequestration under Section 45Q.

DATES: Written comments should be received on or before April 15, 2013 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 notice should be directed to Katherine Dean, at (202) 622–3186, or at Internal Revenue Service, room 6242, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Carbon Dioxide Sequestration under Section 45Q

OMB Number: 1545–2153.

Notice Number: Notice 2009–XX (NOT–151370–08).

Abstract: The proposed notice sets forth interim guidance, pending the issuance of regulations, relating to the credit for carbon dioxide sequestration (CO_2 sequestration credit) under § 45Q of the Internal Revenue Code.

Current Actions: This is a new collection. There are no changes being made to the notice at this time.

Type of Review: Approval of a new collection.

Affected Public: Business and for-profit.

Estimated Number of Respondents: 30.

Estimated Average Time Per Respondent: 6 hrs.

Estimated Total Annual Burden Hours: 180 hrs.

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.

Approved: January 29, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–03085 Filed 2–11–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 78 Tuesday,

No. 29 February 12, 2013

Part II

Environmental Protection Agency

40 CFR Parts 60 and 63

National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2011–0817; FRL–9758–6]

RIN 2060–AQ93

National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 18, 2012, the EPA proposed amendments to the National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry and the Standards of Performance for Portland Cement Plants. This final action amends the national emission standards for hazardous air pollutants for the Portland cement industry. The EPA is also promulgating amendments with respect to issues on which it granted reconsideration on May 17, 2011. In addition, the EPA is amending the new source performance standard for particulate matter. These amendments promote flexibility, reduce costs, ease compliance and preserve health benefits. The amendments also address the remand of the national emission standards for hazardous air pollutants for the Portland cement industry by the United States Court of Appeals for the District of Columbia Circuit on December 9, 2011. Finally, the EPA is setting the date for compliance with the existing source national emission standards for hazardous air pollutants to be September 9, 2015.

DATES: This final rule is effective on February 12, 2013. The EPA is setting the compliance date for existing open clinker storage piles to be February 12, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2011–0817. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, for example, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Ms. Sharon Nizich, Office of Air Quality Planning and Standards; Sector Policies and Programs Division, Minerals and Manufacturing Group (D243–04); Environmental Protection Agency; Research Triangle Park, NC 27111; telephone number: (919) 541–2825; fax number: (919) 541–5450; email address: *nizich.sharon@epa.gov.* For information about the applicability of the NESHAP or NSPS contact Mr. Patrick Yellin, Monitoring, Assistance and Media Programs Division (2227A), Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number (202) 654–2970; email address *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

APCD air pollution control devices
CAA Clean Air Act
CBI confidential business information
CDX Central Data Exchange
CEMS continuous emission monitoring systems
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CISWI commercial and industrial solid waste incinerators
CMS continuous monitoring system
COMS continuous opacity monitoring system
CO_2 carbon dioxide
CPMS continuous parametric monitoring system
D/F dioxins and furans
EPA Environmental Protection Agency
ESP Electrostatic Precipitators
ERT Electronic Reporting Tool
FR Federal Register
gr/dscf grains per dry standard cubic foot
HAP hazardous air pollutants
Hg mercury
HCl hydrogen chloride
ICR information collection request
Lb/ton pound per ton
MACT maximum achievable control technology
meHg methylmercury
NAICS North American Industry Classification System
NAS National Academy of Science
NESHAP National Emissions Standards for Hazardous Air Pollutants
NHSM Nonhazardous Secondary Materials
NO_X Nitrogen Oxides
NRC National Research Council
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
oHAP Non-dioxin organic hazardous air pollutants
OMB Office of Management and Budget
PCA Portland Cement Association
PM particulate matter
ppm(v) (d,w) parts per million (by volume) (dry, wet)
RATA Relative Accuracy Test Audit
RfD reference dose
RIA regulatory impact analysis
RTC Response to Comment
RTO regenerative thermal oxidizers
SIP state implementation plan
SO_2 Sulphur Dioxide
THC total hydrocarbons
tpy tons per year
TTN Technology Transfer Network
$\mu g/m^3$ micrograms per cubic meter
UPL Upper Prediction Limit
UMRA Unfunded Mandates Reform Act
TEOM Tapered Element Oscillating Microbalance
VCS voluntary consensus standards
WWW worldwide web

Background Information Document. On July 18, 2012 (77 FR 42368), the EPA proposed to amend the Portland cement manufacturing industry NESHAP and the Portland cement plant new source performance standards (NSPS). In this action, we are taking final action on this proposal. A summary of the public comments on the proposal and the EPA's responses to those comments is available in Docket ID Number EPA–HQ–OAR–2011–0817.

Organization of this Document. The information presented in this preamble is organized as follows:

I. General Information
A. Executive Summary
B. Does this action apply to me?
C. Where can I get a copy of this document?
D. Judicial Review
II. Background Information
A. What is the statutory authority for these amendments?
B. What actions preceded this final rule?
III. Summary of Final Amendments to Subpart LLL and Subpart F
A. Reconsideration of Standards
B. Continuously Monitored Parameters for Alternative Organic HAP Standard (With THC Monitoring Parameter)
C. Allowing Sources With Dry Caustic Scrubbers To Comply With HCl Standard Using Performance Tests
D. Alternative PM Limit
E. Coal Mills
F. NESHAP Compliance Date Extension for Existing Sources
G. Section 112 Eligibility To Be a New Source
H. Other Testing and Monitoring Revisions
I. Miscellaneous Amendments
J. Standards During Periods of Startup and Shutdown

K. Reporting for Malfunctions and Affirmative Defense for Violation of Emission Standards During Malfunctions
L. What are the compliance dates of the standards?
M. Open Clinker Storage Piles
IV. Summary of Major Changes Since Proposal
A. PM Parametric Monitoring
B. Scaling for Continuous Parametric Monitoring of THC for Alternative OHAP Standard
C. Work Practice Standard in Lieu of Numerical Emissions Limits for Periods of Startup and Shutdown
V. Summary of Significant Comments and Responses
A. Amendments to Existing Source and New Source Standards for PM Under CAA Sections 112(d) and 111(b)
B. Mercury Standard
C. Standards for Fugitive Emissions From Open Clinker Storage Piles
D. September 9, 2015, Compliance Date for the Amended Existing Source Standards
E. Eligibility to be a New Source Under NESHAP
VI. Summary of Cost, Environmental, Energy and Economic Impacts
A. What are the affected sources?
B. How did EPA evaluate the impacts of these amendments?
C. What are the air quality impacts?
D. What are the water quality impacts?
E. What are the solid waste impacts?
F. What are the secondary impacts?
G. What are the energy impacts?
H. What are the cost impacts?
I. What are the health effects of these pollutants?
VII. 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 Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. General Information

A. Executive Summary

In this action the EPA is finalizing amendments to the NESHAP for Portland cement plants and to the NSPS for Portland cement plants. These amendments respond to petitions for reconsideration filed by the Portland cement industry and to a decision by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). The EPA is retaining the stack emission standards for mercury, hydrogen chloride (HCl), and total hydrocarbons (THC) under the NESHAP, amending the stack emission standard for particulate matter (PM) under the NESHAP, and making a conforming amendment to the NSPS for PM. The amendments also include provisions which account for commingled HAP emissions from coal mills that are an integral part of the kiln, establish a continuous monitoring regime for parametric monitoring of PM, set work practice standards for startup and shutdown, and revise the compliance date for the PM, mercury, HCl, THC and clinker storage pile existing source standards under the NESHAP. The EPA is also retaining the affirmative defense for civil penalties for violations of emission limits occurring as a result of a malfunction.

These amendments are based on sound technical and legal justifications, and result in cost savings and compliance flexibility for the Portland cement industry. This result is consistent with Executive Order 13563.

1. Purpose of the Regulatory Action

a. Need for the Regulatory Action

The EPA is amending the NESHAP for the Portland cement source category and the NSPS for Portland cement plants issued under sections 112(d) and 111(b) of the Clean Air Act (CAA). The most significant amendment is to the NESHAP and NSPS for PM, to correct monitoring issues with the PM compliance regime as promulgated in the 2010 final rule. As a result of this amendment, the EPA is also setting a compliance date of September 9, 2015, for meeting the PM, mercury, HCl and THC existing source NESHAP.

This final action also addresses the remand by the DC Circuit in *Portland Cement Ass'n* v. *EPA,* 665 F. 3d 177 (DC Cir. 2011). In that case, the court upheld all of the EPA's methodology for establishing the Portland cement NESHAP, denied all petitions for review challenging the NSPS, but also held that the EPA had arbitrarily denied reconsideration of the NESHAP to take into account the effect of the EPA's Nonhazardous Secondary Materials (NHSM) rule on the standards. The NHSM rule, issued after the NESHAP was promulgated, had the effect of reclassifying some cement kilns as commercial and industrial solid waste incinerators (CISWI) and thus could have an effect on the standards. The court also stayed the open storage clinker pile standards.

We are also amending various implementation requirements to provide more compliance flexibility for affected sources. In addition, the amendments address the issues on which the EPA previously granted reconsideration. See 76 FR 28318 (May 17, 2011).

b. Legal Authority for the Regulatory Action

These amendments implement sections 112(d) and 111(b) of the CAA. Section 112 of the CAA establishes a regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. After the EPA identifies categories of sources emitting one or more of the HAP listed in section 112(b) of the CAA, section 112(d) requires the EPA to promulgate technology-based NESHAP for those sources. Section 112(i)(3)(A) requires that the compliance date for existing sources shall be ''as expeditiou[s] as practicable,'' but not more than 3 years after a standard's effective date. Section 111 of the CAA requires that NSPS reflect the application of the best system of emission reductions achievable which, taking into consideration the cost of achieving such emission reductions, and any non-air quality health and environmental impact and energy requirements, the Administrator determines has been adequately demonstrated.

2. Summary of Major Provisions

a. PM Emission Standards

As proposed, the EPA is amending the existing and new source PM standards in the NESHAP to require manual stack testing in lieu of PM continuous emission monitoring systems (CEMS) for compliance determinations and requiring that a site-specific parametric operating level be established using a PM continuous parametric monitoring system (CPMS). We are changing the numeric emissions value of those standards for existing sources to 0.07 pounds per ton (lb/ton) clinker based on manual stack testing and 0.02 lb/ton clinker for new and reconstructed sources based on manual stack testing. The PM standards under the NSPS for modified sources are likewise amended to 0.07 lb/ton clinker based on manual stack testing and 0.02 lb/ton clinker for new and reconstructed sources based on manual stack testing.

b. Response to Remand

Consistent with the court's remand, the EPA has removed all of the CISWI kilns from the database used to set the 2010 existing source standards for PM,

mercury, HCl and THC. This analysis informed the level of the final standards discussed immediately below.

c. Other Emissions Standards

As proposed, the EPA is changing the alternative organic HAP (oHAP) standard from 9 parts per million (ppm) to 12 ppm. The EPA is not changing the existing or new source standards for mercury, THC or HCl.

d. Standards During Startup and Shutdown

The EPA is amending the emission standards applicable during periods of startup and shutdown from numerical standards to work practice standards.

e. Compliance Dates for NESHAP

As proposed, the EPA is establishing a compliance date of September 9, 2015, for existing source standards for PM, mercury, HCl and THC. The EPA is establishing February 12, 2014, as the compliance date for the standards for existing open clinker storage piles. New source standards continue to apply to all sources which commenced construction or reconstruction after May 6, 2009.

f. Final Action on Reconsideration

The EPA is also taking final action on the remaining issues on which it granted reconsideration on May 17, 2011.

3. Cost Impacts of These Amendments

We estimate that revising the means of demonstrating compliance for the PM, alternative organic HAP standards and requiring work practices for open clinker storage piles will save industry $52 million annually.

4. Summary of Final Standards

Table 1 shows the final standards for the Portland Cement Manufacturing Industry NESHAP and the Portland Cement Plants NSPS.

TABLE 1—EXISTING AND NEW SOURCE STANDARDS

Pollutant	Existing source standard	New source standard
Mercury	55 lb/MM tons clinker	21 lb/MM tons clinker.
THC	24 ppmvd	24 ppmvd.
PM	0.07 lb/ton [a] clinker (3-run test average)	0.02 lb/ton [b] clinker (3-run test average).
HCl	3 ppmvd	3 ppmvd.
Organic HAP (alternative to Total Hydrocarbons).	12 ppmvd	12 ppmvd.

[a] Also applies to NSPS modified sources.
[b] Also applies to NSPS new and reconstructed sources.

B. Does this action apply to me?

Categories and entities potentially regulated by this final rule include:

TABLE 2—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS NESHAP AND NSPS FINAL ACTION

Category	NAICS code [a]	Examples of regulated entities
Industry	327310	Portland cement manufacturing plants.
Federal government		Not affected.
State/local/tribal government		Portland cement manufacturing plants.

[a] North American Industry Classification System.

Table 2 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility will be regulated by this action, you should examine the applicability criteria in 40 CFR 60.60 (subpart F) or in 40 CFR 63.1340 (subpart LLL). If you have any questions regarding the applicability of this final action to a particular entity, contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

C. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the World Wide Web (WWW) through the EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. In addition, more information can be obtained at the following address: *http://www.epa.gov/airquality/cement.*

D. Judicial Review

Under section 307(b)(1) of the CAA, judicial review of this final action is available only by filing a petition for review in the court by April 13, 2013. Under section 307(b)(2) of the CAA, the requirements established by the final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000,

Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background Information

A. What is the statutory authority for these amendments?

Section 112 of the CAA establishes a regulatory process to address emissions of HAP from stationary sources. After the EPA has identified categories of sources emitting one or more of the HAP listed in section 112(b) of the CAA, section 112(d) requires us to promulgate NESHAP for those sources. For ''major sources'' that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of a combination of HAP, these technology-based standards must reflect the maximum reductions of HAP achievable (after considering cost, energy requirements and non-air quality health and environmental impacts) and are commonly referred to as maximum achievable control technology (MACT) standards.

The statute specifies certain minimum stringency requirements for MACT standards, which are referred to as ''floor'' requirements. See CAA section 112(d)(3). Specifically, for new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (for which the Administrator has emissions information) in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we must also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements. See CAA section 112(d)(2).

Under section 112(i)(3)(A), compliance dates for existing sources shall ''be as expeditiou[s] as practicable'', but in no event later than 3 years after the date of publication of the final rule in the **Federal Register**. The EPA may set a revised compliance date of a MACT standard when amending that standard, see *NRDC* v. *EPA,* 489 F. 3d 1364, 1373–74 (D.C. Cir. 2007), but any such amended compliance date must still establish ''compliance as expeditiously as practicable.''

Section 111(b) requires the EPA to set standards for emissions that ''reflect the degree of emission limitation achievable through the application of the best system of emission reduction.'' See CAA section 111(a)(1). In contrast to the NESHAP floor setting process, NSPS requires the EPA to take into account the ''cost of achieving'' emissions reductions, as well as health, environmental, and energy considerations. *Id.*

B. What actions preceded this final rule?

The history of this final rule, commencing with the 1999 standards and proceeding through the amendments issued in September 2009, is set out in detail in 75 FR 54970 (Sept 9, 2010). The Portland Cement Association (PCA) and several cement companies filed petitions for reconsideration of aspects of those amendments (copies of the petitions are in the Portland Cement Reconsideration docket, EPA–HQ–OAR–2011–0817). On May 17, 2011, the EPA granted reconsideration of various issues, and denied the petitions to reconsider as to the remaining issues. See 76 FR 28318 (May 17, 2011). On December 9, 2011, the D.C. Circuit issued an opinion upholding the NESHAP itself (as well as the section 111 NSPS), but finding that the EPA had arbitrarily failed to grant reconsideration to consider the effect of the EPA's NHSM rule on the standards (76 FR 15456 (March 21, 2011)), The NHSM rule had the effect of reclassifying some cement kilns as commercial and solid waste incinerators. See *Portland Cement Ass'n* v. *EPA,* 665 F. 3d 177, 186–189 (D.C. Cir. 2011). The court did not stay any of the numerical emission standards, but did stay the work practice standards for open clinker storage piles pending the conclusion of the reconsideration process. See 665 F. 3d at 194.

In this action, the EPA is responding to the court's remand. For existing sources, the EPA had done so by removing all kilns classified as CISWI units from the data used to establish the 2010 NESHAP standards. The EPA then recalculated each of the floors based on this dataset (the 2010 dataset minus CISWI units) and made beyond-the-floor determinations based on the recalculated floors. The EPA believes that this approach is properly responsive to the court's remand. See 665 F. 3d at 188 where the court referred favorably to this type of recalculation. For new sources, EPA used the same data as used to establish the 2010 floors—namely the performance of the best controlled similar sources as required by section 112(d)(3).

III. Summary of Final Amendments to Subpart LLL and Subpart F

As discussed in the preamble of the proposed rule, 77 FR 42368, in this final action the EPA is finalizing several amendments to Subpart LLL and Subpart F. These amendments are summarized below.

A. Reconsideration of Standards

As noted above, EPA has responded to the action of the DC Circuit by removing all CISWI cement kilns from the database used to establish the existing source standards, and recalculating existing source floors and standards from that revised database. As described in the preamble of the proposal, the EPA had determined based on the final NHSM rule that there are 24 cement kilns which combust solid waste. 77 FR 42372. During the comment period, one company provided reliable information in its comments regarding the materials it processes indicating that one of these kilns is, in fact, a cement kiln (meaning that the EPA had properly classified it as a cement kiln in the 2010 rulemaking).[1] After reviewing the information provided, the EPA agrees that this source should not be classified as a CISWI kiln and, therefore, should not be removed from the Portland cement kiln database. We received no other comments concerning the identification of cement kilns and CISWI units. There are thus now 23 kilns identified as combusting solid waste and therefore classified as CISWI units. As directed by the Court's decision, we removed these 23 kilns from the database and recalculated the floors. This calculation resulted in the same floors as proposed in the July 2012 proposal.

Consistent with this analysis, the EPA is finalizing amendments to the emission standards as follows:

[1] The company burns dried biosolids as a fuel which are not classified as solid wastes. Refer to the Docket, No. EPA–HQ–OAR–2011–0817–0482.

1. PM Emission Standards

The EPA is revising several provisions of the emission standards for PM as follows:

• Changing the compliance basis for the PM standards from continuous monitoring with a PM CEMS to a manual three run stack test, amending the level and averaging time of the standard, and requiring a continuous parametric monitoring system using a CPMS. As a consequence, the EPA is also:

• Amending PM standards under the NESHAP for existing sources to 0.07 lb/ton clinker based on manual stack testing, and 0.02 lb/ton clinker for new and reconstructed sources based on manual stack testing;

• Amending PM standards under the NSPS for modified sources to 0.07 lb/ton clinker based on manual stack testing and 0.02 lb/ton clinker for new and reconstructed sources likewise based on manual stack testing;

• Requiring that sources establish a site-specific parametric operating limit for PM, and requiring that the parametric limit be continuously monitored using a PM CPMS;

• Requiring that sources retest once a year to reset the PM CPMS operating limit;

• Adding a provision that, if a source exceeds that site-specific parametric operating limit, it must conduct corrective action including performing a Method 5 or 5I performance test within 45 days; in addition, if the source exceeds that parametric limit four times in a calendar year, the source is presumed to be in violation of the PM emissions standard itself, subject to rebuttal by the source.

2. Mercury Standard

As proposed, the EPA is establishing a standard for mercury of 55 pounds per million (lb/MM) tons clinker for existing sources and is not changing the emission standard (21 lb/MM tons clinker) for new sources. The emission standard for existing sources is the same as the 2010 standard but is a beyond the floor standard.

3. Other Emissions Standards

As the Court requested, the EPA removed the CISWI units from the database and re-calculated the standards for THC and HCl. The standards remain the same as they were in the final 2010 rule. See also 76 FR 21149, 21152, and 21154 explaining why beyond the floor standards for THC and HCl are not justified. The 2010 rules provide an alternative to the THC standard whereby sources can meet a limit for non-dioxin organic HAP by measuring those HAP directly rather than meeting the standard for THC (a surrogate for non-dioxin organic HAP). As proposed, the EPA is changing the level of the alternative non-dioxin organic HAP standard from 9 ppm to 12 ppm. Table 3 summarizes the Final Existing and New Source Standards

TABLE 3—EXISTING AND NEW SOURCE STANDARDS [a]

Pollutant	Existing source standard	New source standard
Mercury	55 lb/MM tons clinker	21 lb/MM tons clinker.
THC	24 ppmvd	24 ppmvd.
PM	0.07 lb/ton clinker (3-run test average)	0.02 lb/ton clinker (3-run test average).
HCl	3 ppmvd	3 ppmvd.
Organic HAP [b]	12 ppmvd	12 ppmvd.

[a] Standards for mercury and THC are based on a 30-day rolling average. The standard for PM is based on a three-run test. If using a CEMS to determine compliance with the HCl standard, the floor is also a 30-day rolling average.
[b] If the source opts to comply with the THC emission limit, this standard does not apply.

B. Continuously Monitored Parameters for Alternative Organic HAP Standard (With THC Monitoring Parameter)

In addition to amending the level of the alternative oHAP standard (i.e., the standard whereby sources meet a standard for oHAP rather than for THC), the EPA is amending the provisions for the site-specific THC operating parameter for that alternative standard (where THC is a site-specific parameter monitored continuously to show compliance with the oHAP standard). The THC operating parameter is established based on THC levels measured during the successful stack test where oHAP are measured directly to demonstrate compliance. As amended, if compliance source testing of oHAP averages a value that is 75 percent or less of the emission limit for oHAP, the facility is allowed to establish a THC parametric operating level corresponding to 75 percent of the oHAP emission limit. We are adopting this provision to avoid penalizing lower-emitting sources by burdening them with the most stringent parametric operating levels. The EPA is adopting a similar provision for continuous PM parametric monitoring, for the same reason (see Section IV.A below). Sources which show oHAP emissions in compliance, but greater than 75 percent of the standard, must establish the average THC concentration measured during the 3-hour organic HAP test and use that as the site-specific THC operating level. Thus, the parametric monitoring level for THC will be the level corresponding to oHAP levels of 75 percent of the standard or the THC level of the oHAP performance test, whichever is higher.[2] Compliance with the oHAP standard will be shown as a ratio of three test runs during mill-on conditions and three test runs during mill-off conditions, with the percentage of operating time spent in each condition determining the ratio. The parametric operating level will be set according to average THC values measured during these same test runs, or to the default value of 75 percent of the standard, as just explained. In addition, the EPA will allow facilities to extend the testing time of the oHAP performance test if they believe extended testing is required to adequately capture THC variability over time. This final rule further requires that the stack test for oHAP be repeated every 30 months to establish a new site-specific THC parameter.

C. Allowing Sources With Dry Caustic Scrubbers To Comply With HCl Standard Using Performance Tests

The 2010 rule allows sources equipped with wet scrubbers to comply with the HCl standard by means of periodic performance tests rather than with continuous monitoring of HCl with a CEMS. Sources electing to comply by means of stack tests must establish continuously monitored parameters including liquid flow rate, pressure, and pH. Under this final rule, kilns with dry scrubbers may also demonstrate

[2] If a source believes that monitoring non-methane THC rather than total THC is a more reliable indicator of its oHAP emissions, it can submit an alternative monitoring request pursuant to the requirements of 40 CFR 63.8(f).

compliance with the HCl emissions limit by means of an initial and periodic stack test rather than with continuous compliance monitoring with an HCl CEMS. If a kiln equipped with a dry scrubber chooses this alternative, this final rule requires that the sorbent injection rate used during a successful performance test be recorded and then continuously monitored to show that the injection rate remains at or above the rate used during the performance test.

Where either wet or dry scrubbers are used, owners and operators may also establish sulfur dioxide (SO_2) as an operating parameter, rather than, for example, sorbent injection rate, liquid injection rate or pressure drop. If the owner or operator of a scrubber-equipped kiln makes this choice, it must establish the SO_2 operating limit equal to the average of the HCl levels recorded during the HCl performance test, and meet that operating limit on a 30 day rolling average basis. If a source exceeds any established parameter level, it must retest for HCl in order to verify compliance with the HCl emissions standard and must verify or re-establish the parametric monitoring levels as well.

At a minimum, a repeat performance test to confirm compliance with the HCl emissions limit is required every 30 months.

D. Alternative PM Limit

The 2010 final rule established an alternative PM limit to accommodate situations where kilns combine exhaust gas from various operations. 77 FR 42382. The equation establishing the alternative limit contained certain technical errors which the EPA proposed to correct. As proposed, this final rule revises the alternative PM equation so that it includes exhaust gas flows from all sources that would potentially be combined, including exhausts from the kiln, the alkali bypass, the coal mill, and the clinker cooler, for an existing kiln. The EPA is thus finalizing the following equation:

$$PM_{alt} = 0.0060 \times 1.65 \times (Q_k + Q_c + Q_{ab} + Q_{cm})/(7000)$$

Where:

PM_{alt} = The alternative PM emission limit for commingled sources.

0.0060 = The PM exhaust concentration (grains per dry standard cubic feet (gr/dscf)) equivalent to 0.07 lb per ton clinker where clinker cooler and kiln exhaust gas are not combined.

1.65 = The conversion factor of lb feed per lb clinker.

Q_k = The exhaust flow of the kiln (dscf/ton feed).

Q_c = The exhaust flow of the clinker cooler (dscf/ton feed).

Q_{ab} = The exhaust flow of the alkali bypass (dscf/ton feed).

Q_{cm} = The exhaust flow of the coal mill (dscf/ton feed).

7000 = The conversion factor for grains (gr) per lb.

If exhaust gases for any of the sources contained in the equation are not commingled and are exhausted through a separate stack, their value in the equation would be zero. The alternative PM equation for new sources is identical to the existing source equation except the PM exhaust concentration used in the equation is 0.002 gr/dscf, which is equivalent to the new source PM limit of 0.02 lb/ton clinker.

E. Coal Mills

The EPA discussed at length in the preamble to the proposed rule a potential regulatory regime to cover situations where a portion of the kiln exhaust is ducted to the coal mill. See 77 FR 42383–85; see also the regulatory text at 77 FR 42398, 42402–06, 42408–09. To assure that cement kilns do not exhaust untreated HAP through coal mills, and to assure accurate accounting of commingled emissions so that cement kilns are not penalized for commingling emissions where it makes sense to do so, the EPA is finalizing rules applicable to kiln/coal mill emissions for two configurations. In one, a portion of the kiln exhaust is ducted to a coal mill, and then the coal mill exhaust is commingled with remaining kiln exhaust and discharged through the main kiln stack. In the other, a portion of the kiln exhaust is routed through the coal mill and discharged through the coal mill stack.

In the case of a coal mill that receives and discharges a portion of the cement kiln exhaust, this final rule requires that the sum of the mercury, THC and HCl in the kiln exhaust diverted to the coal mill, and the kiln exhaust exhausted from the main kiln stack, must not exceed the subpart LLL emission limits for each respective HAP or HAP surrogate. The facility must document the contribution of the emissions diverted to the coal mill. For mercury, the rule allows tests to be performed downstream of the coal mill to take advantage of any mercury removal that occurs in the coal mill air pollution control device, and to avoid double counting emissions from mercury that becomes re-entrained in the coal. For THC and HCl, the rule allows tests to be performed upstream of the coal mill to avoid any THC or HCl that might be emitted by the coal. For owners and operators who believe that the impact of the testing location (upstream or downstream of the coal mill) would not result in their exceeding the kiln mercury, THC or HCl emissions limits and wish to conduct all their THC, HCl and mercury testing at a single location, this final rule allows testing either upstream or downstream of the coal mill. For sources complying with the alternate organic HAP limit, the facility would not be required to test for THC emissions, but would test for the organic HAP and add that concentration to the remaining emission points to estimate their total emissions for organic HAP.

A cement kiln that commingles emissions from its coal mill with all other kiln exhaust emissions and discharges through a single stack could simply meet the kiln emission limits. In the case of PM, the additional flow from the coal mill would be accounted for in the equation used to determine PM contributions from commingled flows. See section D above. In this configuration, the source would also have the option of monitoring and/or testing kiln exhaust gases prior to the introduction of the coal mill exhaust gas, and testing the kiln gas diverted to the coal mill. In this case this final rule requires that the sum of the mercury, THC (or organic HAP if the source chooses the alternative organic HAP limit), and HCl in the kiln exhaust diverted to the coal mill plus the kiln exhaust measured in the main kiln exhaust must not exceed the subpart LLL emission limits for each respective HAP or HAP surrogate.

The same provisions for coal mills also apply to kilns equipped with an alkali bypass. The one minor exception is that for PM, the summed PM emissions from the kiln and alkali bypass must be equal to or less than the PM limit in subpart LLL. Tests for PM from the alkali bypass must be conducted downstream of the alkali bypass air pollution control devices (APCD) to account for those emission reductions.

With regard to PM, the EPA stated at proposal that where a coal mill receives and discharges a portion of the cement kiln exhaust, the kiln owner operator would have to demonstrate compliance with the 40 CFR 60 subpart Y standard for PM. Although the subpart Y standard is numerically higher than the subpart LLL PM standard, EPA assumed that control would be to the same level because the subpart Y PM standard is predicated on use of fabric filer control technology. 77 FR 42383/2. However, a commenter pointed out accurately that this proposal contravened the basic principle EPA indicated it was adopting here of not allowing diverted kiln emissions to meet a more lenient standard than required by the NESHAP,

and further indicated that EPA had failed to show that these diverted PM emissions were controlled as required by section 112(d)(2) and (3) of the Act. EPA agrees with this comment, and accordingly is indicating in the final rule that commingled emissions in this situation would be required to meet the subpart LLL NESHAP for PM. Because coal mill stacks are controlled with fabric filters, we project that they can meet the subpart LLL numeric standard without further controls. See 77 FR 42383. Coal mill stacks will be required to meet annual PM performance testing and combine the measured emissions with PM emissions from the separated alkali stack, bypass stack, and/or main kiln as required in sections 60.62(b)(3), 63.1349 and 63.1350 of this rule.

This final rule also states that sources equipped with an alkali bypass stack or sources that exhaust kiln gases to a coal mill that exhausts through a separate stack are not required to install CEMS on these stacks. Instead of installing a CEMS, such sources may use the results of the initial and subsequent performance test to demonstrate compliance with the PM, THC, HCl and mercury emissions limits. Note that for the main kiln exhaust, the CEMS requirements remain.

We expand on these monitoring provisions below.

1. Mercury

Although mercury from the kiln stack is monitored using a CEMS, mercury emissions from the coal mill are based on a periodic performance test and use of the gas flow rate to the coal mill. Performance tests for mercury must be conducted annually unless and until the tested mercury levels are below the method detection limits for two consecutive years, after which tests may be conducted every 30 months. The performance test results must be summed with the emissions from the kiln stack to determine compliance. The coal mill exhaust mercury emissions are calculated on a mass basis using the measured mercury concentration and the coal mill exhaust gas flow. The coal mill exhaust flow is established using a continuous monitoring system (CMS), or the design maximum flow rate. Mass mercury emissions from the coal mill would be summed with the hourly mercury emissions from the kiln measured by the mercury CEMS. Hourly mercury emissions are then summed to calculate the rolling 30-day mass mercury emissions. This number is then divided by the corresponding 30 days of clinker production to determine the 30-day rolling average. This final rule provides equations for summing emissions from the coal mill with the mercury emissions from the kiln to determine continuous compliance. To see an example calculation, see Section 4 of the Portland Cement Reconsideration Technical Support Document (developed for the proposal), docket item EPA–HQ–OAR–2011–0817–0225.

2. THC and HCl

In this case, site specific kiln stack emission limits (to be continuously monitored) are to be calculated taking into consideration the volumetric exhaust gas flow rates and concentrations of all applicable effluent streams (kiln stack, coal mill and alkali bypass) for the kiln unit. In order to determine the flow rates and concentrations of THC and HCl in the coal mill and alkali bypass streams, the source must test every 30 months using the appropriate test method. For HCl, the performance test must be performed using Method 321 in Appendix A to 40 CFR Part 63. For measurement of THC, Method 25A in Appendix A–7 to 40 CFR Part 60 is required. With these data, the concentration of THC and HCl that must be monitored by the kiln CEMS in order to demonstrate compliance with the kiln MACT limit can be calculated using the equations in this final rule. As with mercury, the coal mill flow rate used to calculate the allowable main kiln stack THC and HCl concentrations can be based on a CMS, or on the maximum design flow rate. The sum of the kiln CEMS and the maximum emissions from the coal mill or alkali bypass must be at or below the subpart LLL limits for THC and HCl. See Section 4 of Portland Cement Reconsideration Technical Support Document (developed for the proposal), docket item EPA–HQ–OAR–2011–0817–0225, for an example calculation.

Also, as a result of these revisions, the EPA is revising the definition of kiln to include inline coal mills and adding a definition of inline coal mill.

F. NESHAP Compliance Date Extension for Existing Sources

This final rule establishes that the compliance date for the amended PM standard, and for the THC, mercury and HCl standards, for existing sources for kilns, clinker coolers and raw material dryers is September 9, 2015. This final rule also establishes February 12, 2014, as the compliance date for the existing open clinker storage pile work practice standards. A detailed discussion of these compliance dates can be found in Section V.D. below.

G. Section 112 Eligibility To Be a New Source

The EPA is not changing the date for new source eligibility under the NESHAP. Thus, a source that commenced construction or reconstruction after May 6, 2009, would remain subject to the section 112 new source standards. A more detailed discussion of this topic can be found below in Section V.E.

H. Other Testing and Monitoring Revisions

In this action we are finalizing the proposed corrections and clarifications to the 2010 rule including changes to: Equations for calculating rolling operating day emissions rates; procedures that include extraneous wording; and cross references and typographical errors in the rule.[3]

For sources that are required to monitor HCl emissions with a CEMS, we are revising the requirements for using HCl CEMS to define the span value for this source category, to include quality assurance measures for data collected under ''mill off'' conditions, and to clarify use of performance specification (PS) 15. This final rule also removes from the standard the oxygen correction factors for raw material dryers and makes minor, non-substantive changes to the sections and paragraphs below:

- Section 60.62(d).
- Section 60.63(b)(1)(i) and (ii), (b)(2), (f)(1), (2), (4), (5), (h)(1) and (6) through (9) (i).
- Section 60.64(b)(2).
- Section 60.66.
- Section 63.1340(b)(1) and (6) through (8).
- Section 63.1346(a) and (c) through (e).
- Section 63.1348(a)(2), (3)(i) through (iii), (a)(4)(i)(A), (a)(4)(ii) and (iv).
- Section 63.1348(b)(1)(i), (iii) and (iv).
- Section 63.1348(b)(3), (5), (6)(i), (8) and (c)(2)(iv).
- Section 63.1349(a), (b)(3), (d)(1) and (d)(2) and (e).
- Section 63.1350(d)(1)(i) and (ii), (f), (f)(2)(i) and (iii), (f)(3), (f)(4), (g)(1) and (2), (k), l(2), (m)(3), (m)(10) and (11), (o) and (p).
- Section 63.1352(b).
- Section 63.1356.
- In addition, we are adding requirements in section 63.1348(a), that

[3] We note that these changes required the agency to reprint sections of regulatory text. See e.g. 63.1348(a)(3)(i). In reprinting these passages, EPA has not reopened, reconsidered, or otherwise reevaluated the substance of these provisions but rather is only making the needed technical alteration.

a cement kiln that becomes subject to the rule after having been subject to the CISWI regulations, must meet all the initial compliance testing requirements even if they were previously subject to Subpart LLL.

I. Miscellaneous Amendments

We are also finalizing amendments to clarify various requirements in this final rule including issues of applicability, treatment of multiple sources that vent to a single stack, third party certification, definitions and use of bag leak detection systems when PM CPMS are in use.

For raw material, clinker or finished product storage bins, we have clarified that the requirements of this final rule apply only at facilities that are a major source (see section 63.1340(b)(6)) and that affected sources that are subject to subpart OOO (standards for nonmetallic mineral processing) are not subject to the requirements of subpart LLL (see section 63.1340(c)).

With regard to the NSPS, to clarify the recordkeeping and reporting requirement in section 60.65(a) to submit excess emission reports, we have added to section 60.61 of the NSPS a definition of ''excess emissions'' to mean ''with respect to this subpart, results of any required measurements outside the applicable range (e.g., emissions limitations, parametric operating limits) that is permitted by this subpart. The values of measurements will be in the same units and averaging time as the values specified in this subpart for the limitations.'' To clarify what data are used in the calculation of emissions, or used in the calculation of parametric levels that are used to demonstrate continuous compliance, we added to this section a definition of ''operating day'' to mean ''a 24-hour period beginning at 12:00 midnight during which the kiln operates at any time. For calculating rolling 30-day average emissions, an operating day does not include the hours of operation during startup or shutdown.'' The definition for ''operating day'' in section 63.1341 of the NESHAP is revised to be consistent with the above definition. We also became aware that some raw material dryers may be used to dry materials other than kiln feed and we have revised the definition of ''raw material dryer'' in recognition of that fact.

J. Standards During Periods of Startup and Shutdown

In the 2010 final NESHAP, the EPA established separate standards for periods of startup and shutdown which differ from the main standards that apply during steady state operations. In this action, based on comments received and the EPA's reconsideration of several technical issues related to startup and shutdown, the EPA is adopting work practices in place of these numerical standards. The rationale and provisions for the work practice standards are discussed in detail in section IV.C.

The EPA is also clarifying the operating conditions during which these standards apply, including a definition of ''startup'' and ''shutdown''. Under the amended definition, startup begins when the kiln's induced fan is turned on and fuel combustion is occurring in the main burner of the kiln. Startup ends when feed has been continuously fed to the kiln for at least 120 minutes or when the kiln feed rate exceeds 60 percent of the kiln design limitation rate. Shutdown begins when continuous feed to the kiln is halted and ends when continuous kiln rotation ceases.

The startup and shutdown-related changes include:

- Adding a definition of startup and shutdown in section 63.1341, as described;
- Adding section 63.1346(f) describing work practice standards to be met during periods of startup and shutdown;
- Revising section 63.1347 to require that startup and shutdown procedures be included in the facility's operation and maintenance plan;
- Adding section 63.1355(f) requiring records of each startup and shutdown including the date, time and duration and the quantity of feed and fuel added to the kiln during startup and shutdown;
- Adding section 63.1348(b)(9) requiring continuous compliance by operating all air pollution control devices during periods of startup and shutdown.

K. Reporting for Malfunctions and Affirmative Defense for Violation of Emission Standards During Malfunctions

The EPA added to the September 9, 2010, final NESHAP rule an affirmative defense to civil penalties for violations of emissions limits that are caused by malfunctions. Various environmental advocacy groups, as well as the PCA, indicated that there had been insufficient notice of this provision. The EPA agreed and granted reconsideration. See 76 FR 28325 (May 17, 2011). This action finalizes the EPA's decision to retain the affirmative defense on reconsideration.

The EPA is retaining in the final NESHAP rule an affirmative defense to civil penalties for violations of emission standards that are caused by malfunctions. See 40 CFR 63.1341 (defining ''affirmative defense'' to mean, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding). We are also revising some of the regulatory provisions that specify the elements that are necessary to establish this affirmative defense as proposed with minor changes from proposal described later in this section. The source must prove by a preponderance of the evidence that it has met all of the elements set forth in section 63.1344. (See 40 CFR 22.24). The criteria are designed in part to ensure that the affirmative defense is available only where the event that causes a violation of the emission standard meets the narrow definition of malfunction in 40 CFR 63.2 (sudden, infrequent, not reasonably preventable and not caused by poor maintenance or careless operation). For example, to successfully assert the affirmative defense, the source must prove by a preponderance of the evidence that the violation ''[w]as caused by a sudden, infrequent, and unavoidable failure of air pollution control, process equipment, or a process to operate in a normal or usual manner * * *.'' The criteria also are designed to ensure that steps are taken to correct the malfunction, to minimize emissions in accordance with section 63.1344 and to prevent future malfunctions.

Similar to actions taken in several other recent NESHAP amendments (see National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting, 77 FR 556, January 5, 2012, National Emission Standards for Hazardous Air Pollutant Emissions for Shipbuilding and Ship Repair (Surface Coating), and National Emission Standards for Wood Furniture Manufacturing Operations, 76 FR 72050, November 21, 2011), the EPA included an affirmative defense in the 2010 final rule and is retaining it in this rule (see section 63.1344). The affirmative defense provisions give the EPA the flexibility to both ensure that its emission standards are ''continuous'' as required by 42 U.S.C. § 7602(k), and account for unplanned upsets and thus support the reasonableness of the standard as a whole. In addition to the authority cited in support of the affirmative defense in the preamble to the proposed rule, the EPA notes that a recent court decision further supports

the EPA's authority to promulgate an affirmative defense. The United States Court of Appeals for the Fifth Circuit recently upheld the EPA's view that an affirmative defense provision is consistent with section 113(e) of the Clean Air Act. *Luminant Generation Co. LLC v. United States EPA,* 2012 U.S. App. LEXIS 21223 (5th Cir. Oct. 12, 2012) (upholding the EPA's approval of affirmative defense provisions in a CAA State Implementation Plan). As discussed in the preamble to the proposed rule (77 FR 42379), the EPA's view is that an affirmative defense to civil penalties for exceedances of applicable emission standards during periods of malfunction appropriately resolves an underlying tension inherent in many types of air regulation, to ensure continuous compliance while simultaneously recognizing that despite the most diligent of efforts, emission limits may be exceeded under circumstances beyond the control of the source. See generally, *Virginia v. Browner,* 80 F.3d 869, 878 (4th Cir. 1996) (the EPA's interpretation that resolved a tension within the CAA is reasonable). The EPA has used its section 301(a)(1) authority to issue regulations necessary to carry out the Act in a manner that appropriately balances these competing concerns.

We are promulgating revisions to the affirmative defense provisions in section 40 CFR 63.1344 as described at proposal (77 FR 42380) and making some minor additional revisions. The phrase ''emission limit'' was changed to ''emission standards'' to reflect that the affirmative defense could be applicable to certain work practice standards. The phrase, ''Off-shift and overtime labor were used, to the extent practicable to make these repairs'' was removed. The term ''notification'' to ''reporting'' was changed to reflect that the root cause analysis required under affirmative defense would be submitted with other periodic reporting. The term ''and monitoring'' was deleted because monitoring malfunctions are defined differently than malfunctions of process and control units and the affirmative defense is intended to apply to malfunctions to affected units that cause a failure to meet an emission standard. The word ''however'' was removed to incorporate more plain language into the regulation. The phrase ''the respondent fails'' was removed and replaced with ''you fail'' to incorporate more plain language into the regulation. The word ''its'' was replaced with ''your'' to incorporate more plain language into the regulation. The phrase ''all of the'' was replaced with ''your'' also to incorporate more plain language into the regulation. The phrase ''air pollution control practice'' was shortened to ''good practices'' to incorporate more plain language into the regulation. In addition, the written report required when asserting an affirmative defense was changed from a separate ''semiannual'' report to a report that is submitted with the first periodic compliance, deviation report or excess emission report due after the event.

We are finalizing the reporting and recordkeeping associated with violations due to malfunctions as described at proposal (77 FR 42388) and making some minor additional revisions as described below.

- Revising section 63.1354(b)(vii) for reporting and recordkeeping violations due to malfunctions. The phrase ''failure to meet a standard'' was used to replace ''deviation'' in the requirement to report violations of the standard. This was changed because the EPA is not finalizing a definition of deviation in this subpart and the term is not defined in the general provisions.
- Revising section 63.1354(c) for reporting a failure to meet a standard due to a malfunction. In addition, the phrase ''failure to meet a standard'' was used to replace ''deviation'' in the requirement to report violations of the standard. This was changed because the EPA is not finalizing a definition of deviation in this subpart and the term is not defined in the general provisions.
- Revising section 63.1355(f) addressing recordkeeping during startup and shutdown. The proposed recordkeeping requirement applicable to startup and shutdown assumed that a numerical emission standard was applicable during startup and shutdown. In finalizing the work practice standards in 63.1346(f) there will no longer be a numerical emission standard applicable during startup and shutdown. As such the recordkeeping requirement must change to reflect the content of the work practice standard. Records must be kept of the date, time and duration of the periods when the work practice is applicable, as well as the fuel and feed data to demonstrate compliance with the work practice standard.

L. What are the compliance dates of the standards?

During the comment period, comments were received that confirmed the need for additional compliance time, since the revised standards can result in different compliance strategies relative to the 2010 final rule. Thus, as proposed, this final rule establishes the compliance date for the amended existing source standards including standards for PM, mercury, HCl and THC to be September 9, 2015. The existing source compliance date for the requirements for open clinker storage piles is February 12, 2014. New sources which commenced construction or reconstruction after May 6, 2009, would remain subject to the new source standards and a compliance date of February 12, 2013, or startup, whichever is later.

M. Open Clinker Storage Piles

The EPA has added work practice requirements for open clinker storage piles that will reduce fugitive dust emissions from these sources. This final rule also contains a definition of open clinker storage piles and requires that a source's operation and maintenance plan include the steps the facility will take to minimize fugitive dust emissions from open clinker storage piles. A detailed discussion of these requirements can be found in section V.C below.

IV. Summary of Major Changes Since Proposal

A. PM Parametric Monitoring

Changes to PM Parametric Monitoring. The EPA proposed the use of PM CPMS for continuous monitoring of PM emissions as a 30-day rolling average established by identifying the average PM CPMS response corresponding to the highest 1-hour PM compliance test. Failure to meet this 30-day rolling average would result in retesting, and more than four exceedances from the parametric limit in a year would be presumed (subject to possibility of rebuttal by the source) to be a violation of the emission standard itself. See 77 FR 42377. Industry commented that this requirement would trigger unnecessary retests for many facilities, especially for the lower-emitting sources. The issue of increased compliance burden falling on the lower emitting sources is legitimate. Sources with especially low PM limits in their performance test would be most at risk of exceeding a parametric limit due to a few emission spikes, even though they would still be operating well under the actual PM compliance limit. We also received comment that the highest PM performance test run may represent, in some circumstances, a number higher than the PM emissions standard. To avoid this eventuality we have changed the final rule to require setting the PM operating limit equivalent to the average of the three PM performance tests, which constitutes the demonstration of compliance with the standard. To avoid

penalizing lower emitting facilities, the EPA has modified the way PM CPMS operating limits are established. Sources whose compliance with the PM emission standard are shown to be 75 percent or below the emission limit in the PM method 5 compliance test will set their PM parametric operating limit to be a 30-day rolling average equivalent to that 75 percent level. In a recent rule (76 FR 15736, March 21, 2011), the EPA established 75 percent of the limit as a number that allows for compliance flexibility and is simultaneously protective of the emission standard, and the same technical basis is applicable here as well. Sources whose compliance with the PM emission standard are above 75 percent of the emission limit will establish their operating limit as a 30-day rolling average equal to the average PM CPMS values recorded during the PM compliance test. It should be noted that this provision affects the allowable level of the parametric limit, but does not change the PM emission limit that must be met.

B. Scaling for Continuous Parametric Monitoring of THC for Alternative OHAP Standard

As explained in section III.B above, the EPA is adopting a scaling approach for parametric monitoring of THC under the alternative organic HAP standard which is conceptually similar to the one just discussed for parametric monitoring of PM. This provision affects the allowable level of the THC parametric limit, but does not change the oHAP emission limit that must be met.

The EPA proposed the use of THC monitoring in conjunction with organic HAP compliance testing to determine a parametric operating limit option for monitoring continuous compliance with the alternative organic HAP standard. In the proposed rule the organic HAP parametric operating limit was established by correlating the highest of three organic HAP test results with the corresponding average THC concentration recorded by a parametric THC monitor. Industry commented that this requirement would trigger unnecessary retests for many facilities, especially for the best performing sources. Not wishing to penalize those sources showing good performance, and simultaneously wanting to be protective of the emission standard, the EPA is changing the way parametric THC operating levels are established. Sources whose compliance with the organic HAP emission standard are shown to be below 75 percent of the emission limit will set their operating limit to be a 30-day rolling average equivalent to that 75 percent level. Sources whose compliance with the organic HAP emission standard are at or above 75 percent of the emission limit will establish their operating limit as a 30-day rolling average equal to the average parametric THC values recorded during the organic HAP compliance test. Sources with an in-line kiln/raw mill will use the fraction of time the raw mill is on and the fraction of time that the raw mill is off, and calculate this limit as a weighted average of the THC levels measured during raw mill on and raw mill off testing.

C. Work Practice Standard in Lieu of Numerical Emissions Limits for Periods of Startup and Shutdown

Under section 112(h) of the Act, the EPA may adopt a work practice standard in lieu of a numerical emission standard only if it is ''not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant''. This phrase is defined in the Act to apply to any situation ''in which the Administrator determines that * * * the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.'' CAA section 112(h)(1) and (2). In adopting numerical limits for startup and shutdown in the 2010 final NESHAP, the EPA rejected comments that it should adopt work practices as a standard during startup and shutdown. This was largely because the commenters had not addressed the issue of whether the requirements of section 112(h) had been met. See docket item EPA–HQ–OAR–2002–0051–3464, pp. 183–84. The EPA later denied petitions to reconsider this issue on the grounds that the agency had already provided ample opportunity for comment on the issue, which petitioners had used. See 76 FR at 28323. The DC Circuit dismissed all challenges to the startup and shutdown provisions in the NESHAP (665 F 3d at 189). The EPA granted reconsideration on several technical issues related to startup and shutdown—specifically, monitoring of mercury and PM during startup and shutdown and having an HCl limit of zero for kilns not equipped with CEMS (see 76 FR at 28325), but these issues are no longer relevant based on the approach adopted in this final rule.

In the proposed reconsideration rule, the EPA proposed to retain the numerical standards, but to use recordkeeping rather than measurements to document compliance with the numerical standard. 77 FR 42382–83. EPA further solicited comment ''on whether the numeric standards during startup and shutdown should be amended to provide work practices'', and suggested what potential work practices might be. *Id.* at 42383. Some commenters supported retention of numerical standards, stating that nothing in the record supports a decision by the EPA that numeric standards are not feasible to measure. However, these commenters provided no supporting technical data. We also received comments opposing numeric limits and supporting work practices in their stead. Commenters stated that any numeric limit should be based on actual data gathered during startup and shutdown, which the proposed limits are not, and that measurement of emissions during startup and shutdown poses significant technical problems, mainly based on CEMS calibration issues, and the duration of startups and shutdowns.

Industry has presented information specific to the cement industry to the EPA on technical issues associated with cement kilns measuring PM, mercury, THC and HCl during periods of startup and shutdown. See docket item EPA–HQ–OAR–2011–0817–0237[1] and PCA Meeting 9–15–11 monitoring presentation in the docket for this rulemaking, as well as their public comments. EPA has continued to evaluate these data. In light of all of these public comments and further evaluation of the data, the EPA has decided to establish work practice standards in lieu of numeric standards during startup and shutdown periods. The EPA is doing so because the application of measurement methodology is not practicable for technological and economic reasons. See CAA section 112(h)(2)(B).

The operation of kilns at cement manufacturing plants is different from many other sources. Kiln startups can last days, during which time fuels are switched and temperatures and moisture conditions fluctuate substantially. Also, cement kilns have two types of inputs—raw feed that is changed into clinker in the kiln, and kiln fuel. The cement kiln is sized to accommodate not just exhaust gas flow from combustion, but the gases evolved from the calcination of limestone and moisture that evaporates from the kiln feed. As a result of these factors, the difference in gas flow characteristics of a cement kiln during steady state operation and startup/shutdown is more pronounced than that for other combustion source categories. In addition, cement kilns begin introducing feed as part of the startup process which further exacerbates the transient and fluctuating nature of these

operations not only because of the impact of this feed on the exhaust gases, but because raw materials and fuels are introduced at opposite ends of the kiln, which results in countercurrent flow of the solid material in the kiln and kiln exhaust gas, increasing the turbulence, transience and fluctuating conditions. The result is that conditions change constantly when cement kilns are in startup or shutdown mode. These conditions make stack measurements, both manual and continuous, for this source category unreliable because the constant shifting in conditions prevents any stack measurement from being representative of anything but conditions at that precise moment. For that reason manual stack tests, which take place over a period of a few hours, would not be presenting accurate information, since they would not be reliably measuring conditions across the duration of the test.

There is no way to craft a testing regime to compensate for these testing issues at each kiln in a manner that can produce reliable and replicable results. Such modifications would be specific to that individual startup event—i.e. *ad hoc* and therefore not of general applicability or utility in showing compliance. Continuous measurements conducted during these periods for cement kilns are also subject to inaccuracies resulting from these rapidly changing conditions. The temperature changes of greater than one thousand degrees Fahrenheit, flue gas moisture changes greater than 20 percent, and gas flow changes over several thousand cubic feet per minute, as well as other factors such as flue gas molecular weight swings, combine to create a complex matrix of measurement variables not accounted for in a cement kiln CEMS installation. That is, CEMS for PM, HCl, Hg, and THC are not able to reliably accommodate all of these transient shifting variables when measuring cement kiln startup and shutdown emissions. As noted above, these issues are further exacerbated by the fact that cement kilns have multiple inputs (fuel and feed), and the clinker production process generates higher gas flows than would be expected based on just the fuel inputs. This fact also means that flue gas flow rates cannot be accurately calculated from fuel inputs alone.

The EPA regards situations where a measurement may yield a value which is analytically suspect, which is the case for cement kilns during startup and shutdown for the reasons just described, as being a situation where measurement is not ''technologically practicable'' within the meaning of section 112(h)(2)(B) of the Act. Unreliable measurements raise issues of practicability and of feasibility and enforceability (see section 112(h)(1)).[4]

The EPA is not finalizing its proposed approach of setting numerical emission limits for startup and shutdown and requiring that sources certify compliance with those limits by keeping certain records certifying that they used certain fuels and did not introduce feed into the kiln. Under the proposal, sources would have had to certify compliance with the standards for the various organics based on assumed combustion conditions. As pointed out persuasively in the public comments, combustion conditions during startup and shutdown are too widely varying to either reliably measure or calculate emissions because combustion conditions change widely during startup and shutdown, sources indicated that they could not certify compliance based on an assumed combustion condition. See docket item EPA–HQ–OAR–2011–0817–0506, p. 11 (''Until ideal combustion conditions can be met in the combustion chamber (adequate temperature and turbulence), the combustion process will be incomplete. While this should not impact fuel-derived hazardous air pollutants (chlorine and mercury), it will impact the emissions of organics and possibly PM''). In light of the measurement issues noted above and the fact that sources could not certify compliance under the proposed approach, the EPA is not finalizing the proposed approach of setting numerical limits for startup and shutdown and allowing sources to certify compliance with the limits by maintaining certain records.

Instead, for the reasons explained above, the EPA is establishing work practice standards to demonstrate compliance with startup and shutdown. The work practices that apply during startup and shutdown are as follows:

- During startup the kiln must initially use any one or combination of the following clean fuels: Natural gas, synthetic natural gas, propane, distillate oil, synthesis gas, and ultra-low sulfur diesel until the kiln reaches a temperature of 1200 degrees Fahrenheit.
- Combustion of the primary kiln fuel may commence once the kiln temperature reaches 1200 degrees Fahrenheit.
- All air pollution control devices must be turned on and operating prior to combusting any fuel.
- You must keep records as specified in § 63.1355 during periods of startup and shutdown.

For the purpose of identifying when the kiln is in a startup/shutdown mode and subject to work practices and when the kiln is subject to numerical emission limits, we are defining the beginning and ending of startup and shutdown. At proposal we defined startup as when the kiln's induced fan is turned on and shutdown was defined as beginning when feed to the kiln is halted. Commenters noted that a kiln may have the induced draft (ID) fan operating even when the kiln is completely shutdown, no fuel is being burned, and there is no potential for emissions. Therefore, we changed the startup definition to be when a shutdown kiln turns on the ID fan and begins firing fuel in the main burner, because this is the point where the potential for emissions to occur begins. Startup ends when feed is being continuously introduced into the kiln for at least 120 minutes or until the feed rate exceeds 60 percent of the kiln design limitation rate. We added the duration/load element to the definition of startup because during startup a kiln must begin adding feed material to achieve steady state operation. After feed is first introduced it requires up to two hours or sufficient feed to achieve 60 percent of maximum operation to achieve a representative steady-state condition. (See meeting notes, PCA November 28, 2012, in the docket for this rulemaking). Shutdown begins when continuous feed to the kiln is halted and ends when the kiln rotation ceases.

We believe these work practices, which include the requirement that all air pollution control devices be operating, will ensure that emissions during startup and shutdown will be lower than the standards that apply during steady state operations, given use of cleaner fuels, minimal raw material inputs, and operation of all control devices during these periods. See 77 FR 42382 (noting that emissions during startup and shutdown would be expected to be lower than during steady state operations for these reasons).

[4] The application of measurement methodology during cement kiln startup and shutdown would also not be ''practicable due to * * * economic limitation'' within the meaning of section 112(h)(2)(B) since it would just result in cost expended to produce analytically suspect measurements.

V. Summary of Significant Comments and Responses

A. Amendments to Existing Source and New Source Standards for PM Under CAA Sections 112(d) and 111(b)

1. Changes to Level and Averaging Time of Existing Source NESHAP

The EPA proposed to amend the existing and new source standards for PM. The floor for the existing source standards increased from 0.04 lb/ton clinker to 0.05 lb/ton clinker as a result of removing CISWI kilns from the database. See Section 8.3, Portland Cement Reconsideration Technical Support Document, June 15, 2012, Docket item EPA–HQ–OAR–2011–0817–0225; see also 77 FR 42372/3. Second, the EPA proposed to change the compliance regime for the standard from use of PM CEMS to stack testing, a consequence being that the standard would no longer be expressed as a 30-day average but rather as the average of three test runs. The EPA thus proposed to express the recalculated floor (i.e. 0.05 lb/ton clinker 30-day average resulting from the reanalysis) as .07 lb/ton of clinker (average of three test runs). The 0.07 lb/ton clinker standard expresses the recalculated floor (i.e. 0.05 lb/ton clinker) as a not-to-exceed value based on stack testing, using the Upper Prediction Limit equation to do so. See Portland Cement Reconsideration Technical Support Document, June 15, 2012, Docket item EPA–HQ–OAR–2011–0817–0225.[5]

The EPA further proposed to use CPMS for continuous parametric monitoring. This system responds to changes in PM concentration and generates a corresponding milliamp output signal. 77 FR 42376–77. The proposed PM parametric level was correlated to the highest recorded value during three test runs. A source would meet this site-specific level on a 30-day rolling average. Failure to meet this 30-day rolling average would result in retesting, and more than four deviations from the parametric level in a year would be presumed (subject to possibility of rebuttal by the source) to be a violation of the emission standard itself. See 77 FR 42377.

Our proposal to change the compliance regime from use of CEMS to stack tests reflected technical issues related to a PM CEMS' reliability with measuring the Portland cement PM standard. Specifically, the EPA discussed the reliability of measurements, obtained using PM CEMS calibrated as required by the mandated PS 11, below the level of the 2010 standard or the level of the recalculated PM floor. See 77 FR 42374–76. The EPA's judgment at proposal was that as a result of PM measurement uncertainties, ''this correlation will not be technically or practically achievable for a significant number of cement kiln sources.'' *Id.* at 42376.

One commenter challenged the necessity of amending the standard to a stack test regime (apparently not realizing that the existing source standard also changed as a result of removing CISWI kilns from the database). First, the commenter maintained that the EPA has no authority to voluntarily change a promulgated MACT standard to make the standard less stringent, based on the language of section 112(d)(7). The commenter further maintained that the EPA had not definitively shown that PM CEMS calibrated pursuant to PS 11 could not be used to reliably measure the Portland cement PM standard. Specifically, the commenter stated that the various problems identified by the EPA at proposal are amenable to resolution by testing longer and more often, and argued that the EPA essentially admitted as much at proposal. The commenter noted that other technical problems, like the difficulty of accounting for varied particle sizes, could be resolved by using a beta gauge CEMS. The commenter dismissed the EPA's technical reservations on these issues as arbitrary speculation. The commenter also stated that PM CEMS are already in successful use by cement plants both in this country and overseas. The commenter further believed that the EPA could resolve these technical issues by amending the PM CEMS Performance Specification rather than by amending the averaging time of the PM standard and changing its compliance basis.

In response, we note first that we do not accept the commenter's legal argument based on section 112(d)(7). Section 112(d)(7) states that ''[n]o other emission standard * * * under this section shall be interpreted, construed or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established pursuant to section 111 of this title, part C or D of this subchapter, or other authority of this chapter or a standard issued under State authority.'' Although the commenter maintained that this provision unambiguously bars the EPA from amending the promulgated NESHAP to make it less stringent, we disagree. Indeed, it is hard to read the statutory language in such a way. On its face, the provision indicates that a section 112(d) standard does not supplant more stringent standards issued under some authority other than section 112(d). Nor does the commenter's interpretation make sense. It would bar the EPA from amending a section 112(d) standard that was technically deficient or incorrect. This cannot have been Congress' intent when adopting the technology-based section 112(d) MACT regime.[6] Moreover, when Congress adopted anti-backsliding provisions in the CAA, it did so explicitly. See CAA sections 172(e); 110(l); and 193. There is no such explicit language in section 112(d)(7). Thus, the EPA does not read section 112(d)(7) as precluding amendments to MACT standards which result in numerically less stringent standards, provided of course, that such standards are technically justified and otherwise consistent with the requirements of the Act.

The commenter is also mistaken in asserting that sources can simply utilize PM CEMS not correlated to PS 11. The PS 11 requirements apply to all PM CEMS used by a cement kiln. See sections 63.1349(b)(1)(A) and 1350 (b)(1) from the 2010 final rule (75 FR 55057, 55059).[7]

With regard to the technical issues raised by this commenter, the EPA explained in detail at proposal the problems of correlating PM CEMS under PS 11 at cement plants (see 77 FR 42374–42377). These obstacles are not resolvable simply by measuring more often and longer, as the commenter maintains. Extending the duration of the Method 5 test gives this reference method additional opportunity to collect more sample mass, but this is no guarantee that the time added to the test will collect enough particulate mass to resolve detection issues, especially when testing is conducted at the better performing (lower emitting) sources. Longer test runs inherently increase the variability of the PM CEMS data collected during the test, which may cause further difficulties with the

[5] One commenter inaccurately stated that the proposed rule would essentially double the PM standard. As just explained, the existing source floor (and standard) increased from 0.04 30-day average to 0.05 lb/ton clinker 30-day average as a result of removing CISWI kilns. As a not-to-exceed standard, that same level is expressed as 0.07 lb/ton clinker, the higher level reflecting the greater variability involved when basing the standard on the average of the three test runs rather than on 30 days of measurements.

[6] The commenter cites no legislative history to support its reading, nor is EPA aware of any.

[7] It also makes no sense to use PM CEMS not subject to a uniform calibration protocol. The results obtained would not be comparable.

correlation between instrument and reference method. Nor does conducting a higher number of reference method tests resolve the difficulties with PS 11 correlation created by greater uncertainty in the reference method at low levels. Put another way, more tests with high uncertainty and poor correlation do not improve the likelihood of passing PS 11 as there is no expectation of improving the mathematical relationship between the reference test and the instrument. Furthermore, PS 11 section 8.6 requires a minimum number of fifteen tests to develop a correlation curve, with no limit to the maximum number. Considering more than 15 tests when developing the correlation creates much difficulty in developing a precise mathematical relationship. Sources are allowed to discard 5 runs for any reason they wish, but must present at least 15 test runs for the correlation calculation. *Id.* As a source increases the number of test runs beyond 20, any additional runs must be included in the correlation equation and at that point the ability of a source to satisfy PS 11 becomes more hampered with every test run.

The EPA noted that special problems are posed by the size and variability of cement kiln-generated particulate. The EPA also noted that the standard light-scintillation type of PM CEMS would likely encounter higher variability for the same PM concentration, and have difficulty satisfying correlation protocols as a result. The EPA noted that beta gauge CEMS could potentially resolve at least some issues related to cement particle variability but noted further that these devices were largely untested in the cement industry, and none (so far as the EPA is aware) has successfully completed a PS 11 certification. See 77 FR 42375/3. The commenter maintains that the existence of beta gauge CEMS resolves all questions as to their reliability in the cement industry, but the EPA reiterates, as it did at proposal, that there needs to be some assurance of the reliability of that methodology to certify with PS 11 at low levels (as required by this final rule). That information does not presently exist. The commenter states that the EPA is being speculative as to potential difficulties with a different CEMS technology, but relative to Portland cement sources, it would be speculative to assume that beta gauge CEMS would successfully pass a PS 11 certification to reliably and quantifiably measure compliance with the NESHAP, especially at the very low PM levels at some of the sources in the cement source category.

The commenter also maintains that Tapered Element Oscillating Microbalance (TEOM) devices could be used in place of light scintillation PM CEMS. A TEOM is a device that uses a very thin, tapered, element vibrating at a known frequency that has a first principle relationship to the measurement of mass. Particles that impact the element also impact the harmonic vibration of the sensor which can be translated to a measurement of the particle mass. This is a more direct approach to measuring the actual mass of PM in stack gas, and has shown promise to operate very consistently at low levels in laboratory conditions. Several TEOMs are currently used for monitoring ambient PM levels at several non-cement, non-domestic industry installations. TEOMs that are capable of measuring stack gas are not currently available for sale in the U.S., though this may change in future years. Even so, with a monitor capable of more direct mass measurement of PM in stack gas, using PS 11 to certify one against Method 5 may be problematic at low PM concentrations. The EPA currently has no data to assess TEOM capabilities versus Method 5 at very low PM concentrations such as those presented by the better performing sources in this category. Were TEOM instrumentation commercially available, the EPA would need to conduct a re-evaluation of PM CEMS technology that included TEOM data to determine if this instrument could overcome the challenges posed by calibration with Method 5 at the very low PM levels emitted by some of the sources in the cement source category. As just explained, it is not speculation, but rather legitimate engineering caution that makes it appropriate not to require compliance with a rule based on an untested measurement methodology.

The commenter further maintains that rather than amend the standard to change the compliance test methodology and averaging time, the EPA should revise PS 11 instead, evidently assuming that a revision can be done rapidly. The commenter's assumption is mistaken. Performance specification development is a process that takes multiple years and involves data collection on types of technologies, field testing, comparison to reference measurement methodology, workgroup and stakeholder meetings, peer review, rule proposal and public comment period, as well as comment response and final promulgation of the Performance Specification. With the development of PA 12A for Mercury CEMS, the EPA invested a budget in excess of one million dollars to conduct technology and field studies, as well as to refine the analytical techniques and work through stakeholder concerns prior to proposal of the Performance Specification. The process from inception to final promulgation took over 5 years to complete. PS 11, at issue here, was over 3 years in development, from concept to final promulgation, and involved a budget of $250,000. Based on this past history, it is likely to result in a delay of 3 years or more were the EPA to delay promulgation of this final rule until we could undertake the process to research, propose and finalize solutions to PS 11 that may ameliorate some of the issues vis-a-vis the cement industry now present. Furthermore, such a process would not address the issues relating to measurement uncertainties using Method 5 at low PM concentration levels near its detection limit (i.e. below its practical quantitation limit of 3 mg), and so there would remain significant technological hurdles to clear before the EPA could require the use of PM CEMS in respect to this final rule.

The commenter points to PM CEMS use by European cement kilns. This is a misplaced comparison. The European calibration and certification of this instrumentation is completely different than PS 11 requirements developed by the EPA. European monitoring is certified in a laboratory environment, and calibrated on site by the instrument vendor when installed. The EPA has a long history of requiring CEMS installations in the USA to meet more rigorous calibration and performance specification certification through a series of comparisons to reference Method 5 test measurements conducted on the stack with the flue gas matrix at the facility, not in a controlled laboratory. For a PM CEMS, this would be a correlation developed with Method 5 as described in PS 11. The two certification regimes differ greatly in approach and simply adapting European certification standards to USA facilities does nothing to mitigate this difference.

In summary, the EPA has carefully considered the issue and it is our engineering judgment that the PS 11 correlation will not be technically or practically achievable for a significant number of cement kiln sources. This is due to the combination of the low emissions concentrations, PM CEMS measurement uncertainty factors, the variability in composition of cement PM, and need for extraordinarily long test runs to reduce Method 5 uncertainty to a level that provides normal measurement confidence (i.e. greater than the 3 mg practical quantitation level of Method 5), plus the

compounding uncertainties associated with source operational variability. The EPA further recognizes that these problems in developing PS 11 correlations are most likely to adversely affect the lowest emitting sources in the category and are more likely to result in violations of the rule more often for these sources than for sources operating with higher PM emissions. This result would obviously be environmentally counterproductive. We are therefore amending the standard to be based on stack testing, and expressing the standard as a not-to-exceed (i.e., stack test Method 5 or 5I) standard of 0.07 lb/ton clinker.[8]

Additional responses regarding these issues, including responses to issues raised in the comments from industry, are found in sections 3 and 4 of the Response to Comment document, which is found in the docket for this rulemaking.

2. Issues Related to Use of CPMS for Parametric Monitoring

To document continuous compliance with the Method 5 standard (i.e., parametric monitoring designed to monitor proper operation of PM controls), the EPA proposed that PM be monitored continuously using a CPMS. See 77 FR 42376–77. The parametric limit was to reflect the highest of the three method 5 test runs from the stack test, and would be averaged over 30-days. The EPA further proposed corrective action requirements in the event of exceeding the 30-day rolling average parametric limit, and a rebuttable presumption that four such exceedances in a calendar year showed a violation of the emission standard itself.

With respect to the use of CPMS technology, the EPA has recognized that PM CEMS technology cannot meet PS 11 requirements in all Portland cement installations, yet the EPA has also recognized that PM CEMS sensors are more sensitive and better at detecting small differences in PM concentration than other technologies such as opacity monitors (*http://www.epa.gov/ttn/emc/cem/pmcemsknowfinalrep.pdf*) In considering the use of PM CEMS at Portland cement facilities we find that while using PM CEMS technology for continuous quantitative measurement of PM concentration as correlated to Method 5 with PS 11 is frequently not achievable (as stated in the preceding subsection of this preamble), using the same technology for continuous qualitative measurement of PM emissions is practicable in every instance. Given the information we have that shows PM CEMS technology to be more sensitive to in-stack PM concentration differences than opacity monitors and nepheolmeters, the EPA sees a distinct advantage in using these technologies for continuous parametric PM monitoring, rather than measuring some other parameter.

In using a PM CEMS as a CPMS to conduct continuous qualitative monitoring of PM concentration in the stack, we are not interested in specific output information from the instrument (e.g. lbs/ton clinker). We only need to know that PM concentration increases or decreases. The signal output from the instrument need not be correlated to PM concentration through PS 11 trials to achieve this, but rather we can accept the native signal output from the instrument, as is, in milliamps, and track that signal to determine trends in PM emissions. In this final rule we are requiring PM CPMS instruments to employ a 4–20 milliamp output, which is a standard electronic signal output common to many CEMS.[9] With a PM CPMS the milliamp output would not represent an opacity value, but like an opacity analyzer, the milliamps would increase as PM concentration increases and decrease as PM concentration decreases. We can then monitor the milliamp signal while conducting a Method 5 performance test and correlate the average milliamp signal to the average PM concentration during the testing. This relationship is notably coarser in terms of understanding the precise PM concentration in the stack, but the instrument's sensitivity to changing PM concentration in the stack, and its changing milliamp signal output, does not deteriorate and may still be employed to qualitatively monitor PM emissions.

The EPA received numerous comments about our proposed PM CPMS parametric monitoring approach. Industry commenters maintained that sources would have to continually retest unnecessarily, since CPMS measure an increase in PM CPMS values. This increase in PM CPMS values would (or at least, could) denote a modest rise in PM emissions, but actual stack emissions of PM could still be well below the limit. The EPA recognizes this concern as creating additional burden for facilities exhibiting good control of their PM emissions (see section IV.A above), and, therefore, we have modified the process by which a source would establish and comply with their PM CPMS operating limit in this final rule. In doing so we considered scaling options for PM CPMS signals, as they correspond with PM emissions, that were proposed by industry but found the options presented were not protective enough of the emission standard. After extensive analysis (see S. Johnson, memo to docket number EPA–HQ–OAR–2011–0817, ''Establishing an Operating Limit for PM CPMS'', November 2012), we are promulgating a scaling factor of 75 percent of the emission limit as a benchmark. See section IV.A above. As in the proposed rule, every source will need to conduct an annual Method 5 test to determine compliance with the PM emissions limit, and during this testing will also monitor their PM CPMS milliamp output. Sources which emit PM less than 75 percent of their emission limit will be able to scale their PM CPMS milliamp output to determine where their PM CPMS would intersect 75 percent of their allowed PM emissions, and set their operating level at that milliamp output. This alleviates many re-testing concerns for sources that operate well below the emission limit and provides them with greater operational flexibility while still assuring continuous compliance with the PM stack emission standard. It also creates an incentive for sources to select high efficiency PM controls when sources are evaluating potential compliance strategies.

For sources whose Method 5 compliance tests place them at or above 75 percent of the emission standard, their operating level will be the average PM CPMS milliamp output during the three Method 5 test runs. This means their operating level is the milliamp output that correlates to their PM compliance determination, and not the highest average 1 hour run value that was in the proposed rule. Now that we are adopting a scaling factor, we no longer believe that it is also appropriate to establish the parametric limit based on the highest of the three runs (which moreover, could reflect a level higher than the level of the standard). Moreover, as noted below, we believe that on balance the 30 days of averaged

[8] Because the EPA believes that these same issues pertain to measurements of the section 111(b) new source performance standard for modified sources, and because further controls would be both costly and not cost effective (see section V.A.3 below), the EPA is adopting the same amendment for modified new sources under the NSPS.

[9] For example, an opacity instrument uses a series of filters to calibrate the analyzer and produce a ''percent opacity'' output. Twenty five percent opacity likely correlates to a milliamp value near eight milliamps, or 4 milliamps plus 25 percent of the difference between 4 and 20 milliamps (again, 4 milliamps). Fifty percent opacity would represent a signal near 12 milliamps, and so on, with 20 milliamps representing a signal of 100 percent opacity.

CPMS measurements provides ample operating cushion.

In a recent rule (76 FR 15736, March 21, 2011), the EPA established 75 percent of the limit as a number that allows for compliance flexibility and is simultaneously protective of the emission standard. In this final rule we are utilizing that value so as not to impose unintended and costly retest requirements for the lowest emitting sources and to provide for more cost effective, continuous, PM parametric monitoring across the Portland cement sector. This approach was selected from among many considered as it provides the greatest amount of flexibility while demonstrating continuous compliance for sources which are the lower emitters in the category and is also effective in holding higher emitters to the emission standard. With this parametric monitoring approach in place we expect sources to evaluate control options that provide excellent PM emissions control and provide them greater operational flexibility below the standard.

One commenter maintained that the use of a CPMS for parametric monitoring would be ''egregious'' since the milliamp output of the CPMS allowed a source to select operational parameters of tangential relation to PM emissions and would therefore not provide useful information as to proper PM control. The commenter also stated that monitoring of opacity would be preferable. An industry commenter likewise requested that continuous opacity monitors or bag leak detectors be used rather than CPMS.

The EPA does not agree with these comments. First, the milliamp output of the CPMS reliably and sensitively indicates increasing or decreasing PM concentration in the stack. Where PM controls are failing, the PM CPMS signal will indicate the increasing concentration of PM in the stack. A source will need to monitor the trend from the PM CPMS daily reading to maintain compliance with the 30-day emission standard. Indeed, the EPA has sufficient confidence that four exceedances of the CPMS continuous measurements is a presumptive violation of the emission standard itself. Moreover, the CPMS is considerably more sensitive than an opacity monitor or bag leak detector at detecting fluctuations in PM level. An opacity monitor determines the percent of a light signal that is occluded across the stack diameter. Opacity analyzers operate on a zero to 100 percent scale, meaning they are capable of registering PM that completely occludes the far stack wall from the instrument light source. This amount of PM is roughly equivalent to a complete failure of the emission control device. A properly operating control device will emit five percent opacity or less, which is barely visible to the naked eye and on the low end of the opacity monitor capability. PM emissions that increase opacity two percent at this level may well exceed the emission standard, yet they only mildly deflect the opacity monitor output. This same 2 percent opacity increase is capable of registering changes of several milliamps on a PM CPMS when operating on the scale provided in this final rule. With several decimal fractions available between each milliamp to track signal output, and three or four milliamps representing 1 percent opacity, the PM CPMS has a clear advantage in low PM concentration measurement over continuous opacity monitoring systems. Regarding baghouse leak detectors, the EPA has no information that shows them operating on the same sensitivity level as PM CPMS technology, and we do not require baghouse leak detection systems on sources where PM CPMS are in use for this reason.

Industry commenters objected to the proposal that 4 calendar year exceedances [10] from the parametric limit would be a presumptive violation of the emission standard. Again, the EPA does not agree. First, the EPA may permissibly establish such a presumption by rule, assuming there is a reasonable factual basis to do so. See *Hazardous Waste Treatment Council* v. *EPA,* 886 F. 2d 355, 367–68 (DC Cir. 1989) explaining that such presumptions can legitimately establish the elements of the agency's *prima facie* case in an enforcement action. Second, there is a reasonable basis here for the presumption that four exceedances (i.e. increases over the parametric operating limit) in a calendar year are a violation of the emission standard. The parametric monitoring limit is established as a 30-day average of the averaged test value in the performance test, or the 75th percentile value if that is higher. In either instance, the 30-day averaging feature provides significant leeway to the owner operator not to deviate from the parametric operating level since the 30 measurements will significantly dampen variability in the single measurement (average of three test runs) that produced the parametric value. See 77 FR 42377/2 and sources there cited. The EPA acknowledges that the difference was even greater between the parametric level and the emission standard in the proposed rule (which was based on the highest measured test run). The EPA believes that the 30-day averaging feature plus the 75-percent scaling feature for the lower emitting sources now provides a sufficient operating cushion. See 77 FR 42377.

3. Existing Source Beyond the Floor Determination

The EPA proposed to use the floor levels for PM as the standard, rejecting more stringent standards on the grounds of poor cost effectiveness (after considering non-air environmental impacts and energy implications of a more stringent standard as well). See 77 FR 42376. One commenter argued that the EPA should adopt a beyond the floor standard for PM, maintaining that such a standard was justified under the factors set out in section 112 (d)(2).

The EPA disagrees, and is not adopting a beyond the floor standard. After considering the cost of the emission reductions attributable to such a standard, and the associated non-air and energy impacts of such a standard, the EPA determines that the standard is not ''achievable'' within the meaning of section 112 (d)(2). Specifically, the EPA estimates that a beyond the floor standard set at the level of the original (2010 final rule) standard would only result in 138 tpy—nationwide—of PM reduction (a value not questioned by any of the commenters). See Final Portland Cement Reconsideration Technical Support Document, December 20, 2012. We further estimate that the cost of achieving this modest incremental reduction would be approximately $37 million (the estimated cost savings attributable to the amended PM standard (including savings attributable to ancillary PM controls related to collection of PM from the control of Hg, THC, and HCl). See Final Portland Cement Reconsideration Technical Support Document, December 20, 2012, included in the rule docket, EPA–HQ–OAR–2011–0817. These total costs are high compared to the small nationwide emission reductions, and the cost effectiveness of these reductions is correspondingly high: approximately $268,000 per ton of PM removed. This is significantly higher cost effectiveness for PM than the EPA has accepted in other NESHAP

[10] In the proposed rule, the EPA referred to a measurement higher than the parametric limit as a ''deviation'' and proposed a definition of deviation. See 77 FR 42398. The EPA is not including this terminology in this final rule. The term ''deviation'' is not in the Portland cement NESHAP rules (which date back to 1998), and has not proved necessary in practice. More important, the rule itself states what the consequences of measurements which exceed a parametric limit are (i.e. retesting, and in some instances, a presumptive violation of the emission standard itself), so that no further general regulatory provision (i.e. a generalized definition of 'deviation' or similar term) is necessary.

standards. See 76 FR 15704 (March 21, 2011) (rejecting $48,501 per ton of PM as not cost effective for PM emitted by CISWI energy recovery units); see also 72 FR 53814, 53826 (Sept. 20, 2007) (proposing (and later accepting) cost effectiveness of $10,000 per ton for PM as reasonable in determining Generally Available Control Technology, and noting that the EPA had viewed cost effectiveness only as high as approximately $31,000 per ton as reasonable under its Title II program for mobile sources). A beyond the floor standard at the level of the 2010 standard would also involve slightly higher energy use, although this is not a major factor in EPA's decision. EPA is therefore not adopting a beyond the floor standard for PM at the level of the 2010 standard. A standard even more stringent would likewise not be justified. See 76 FR 54988.[11]

4. New Source PM Standard Under Section 112(d)(3)

One commenter challenged the methodology the EPA used in the 2010 rulemaking to establish the new source floor and standard, maintaining that for new plants, the EPA's floors must reflect the emission level achieved by the single best performing kiln in the category, not the best performing kiln for which the EPA happens to have emissions information. See section 112(d)(3). The EPA did not reopen the methodology by which new source floors for this industry are determined. See 77 FR 42373 n. 3 (''The EPA will not consider comments challenging the data and methodology for the new source standards since these are unchanged from the 2010 rule and the EPA is not reexamining any of these issues.'') In any case, if the issue is (against the EPA's view) deemed to be reopened, CAA section 112(d)(3) indicates that new source floors are to be based on ''the emission control that is achieved in practice by the best controlled similar source, *as determined by the Administrator''* (emphasis supplied). This language affords considerable discretion for the agency to base the NESHAP new source floors on performance of sources for which the agency has emissions information.

B. Mercury Standard

The EPA explained at proposal that reanalysis of the mercury floor, after removing CISWI kilns, resulted in a floor of 58 lb/MM tons clinker produced—slightly higher than the previously calculated floor and standard of 55 lb/MM tons clinker produced. The EPA further proposed to adopt 55 lb/MM tons clinker produced as a beyond-the-floor standard. See 77 FR 42373. The new source standard was unchanged since the standard was based on the performance of the best performing similar source.

The EPA is adopting the standards as proposed. One commenter challenged the appropriateness of adopting a beyond-the-floor standard, not for the industry as a whole, but for itself. As to this individual plant (Ash Grove, Durkee), the commenter maintained that the cost of attaining the three additional lb/MM ton clinker produced reduction (i.e., the difference between 58 and 55 lb/MM tons clinker produced) was greater than the EPA estimated because it would require more than just additional carbon in an activated carbon injection system to achieve the incremental difference. According to the commenter, they have performed extensive testing and the addition of activated carbon per million actual cubic feet per minute of exhaust gas has little or no impact on mercury emissions. The commenter states that for plants such as Ash Grove's Durkee plant, there is no known add-on control technology at this time that will assure achievement of the standard on a continuous basis.

We note first that the commenter is somewhat over-estimating the incremental reduction of mercury actually needed. To achieve the emission standard, sources will need to operate their processes and controls so that they can achieve the average emissions level used in setting the existing source limit of 55 lb/MM ton—the so-called design level. See e.g. 77 FR 42389/3 (estimating emissions attributable to this final rule based on design levels); see also discussion of design values in section VI.B below. That level is 31.7 lb/MM ton for the standard of 55 lb/MM ton. See 75 FR 54976/3. The average for the 58 lb/MM ton is 34.1 lb/MM ton. The additional reduction needed is therefore 2.4 lb/MM tons, not 3 lb/MM tons as stated by the commenter.

As the EPA has acknowledged repeatedly, due to the high levels of mercury in their limestone, mercury emissions from the Ash Grove Durkee plant are not typical of other plants in the industry. See, e.g. 75 FR 54978–79. As a result, this plant faces a particularly great challenge in meeting the mercury standard, whether the standard is 55 or 58 lb/MM tons. Because of their unique situation, we do not believe that the difficulties this facility is having in meeting the mercury standards can be generalized to the rest of the industry. Section 112(d)(2) of the Act posits an industry-wide standard. Having said this, our cost analysis conducted for the 2009 proposal and 2010 final rule assumed that this plant would have to install multiple control systems in order to meet the limit for mercury. See Docket item EPA–HQ–OAR–2002–0051–3438. Therefore, if in this particular case the activated carbon injection (ACI) system cannot achieve the small additional reductions required, then the facility has other mercury control options available such as further dust shuttling, or treating cement kiln dust to remove mercury. Dust shuttling entails moving dust from within the kiln to other parts of the process and is considered a closed loop process, thereby not causing any waste impacts. In addition, any costs associated with dust shuttling have already been accounted for in the cost estimates the EPA has developed for this particular facility.

The commenter alluded to control performance data that it shared with the EPA. We note that the commenter has provided pilot scale data as part of the 2010 rulemaking (see Docket item EPA–HQ–OAR–2002–0051–2073), but has not provided data on the effects of increasing carbon injection on mercury emissions for a full scale facility. We note that in the electric utility industry, where there is significantly more experience with ACI, it is well established that higher carbon injection rates increase mercury removal (Sjostrom, S.; Durham, M.; Bustard, J. Martin, C.; ''Activated Carbon Injection for Mercury Control: Overview'', FUEL, 89, 6, 1320 (2010)). There is no data to indicate that ACI systems in the cement industry would behave differently than those in the utility industry. Given the lack of data on the efficacy of increasing carbon injection rates on mercury removal for full scale cement operations, we cannot conclude that increasing carbon injection is not a

[11] The commenter's argument that section 112 (d)(2)'s requirement that the EPA consider ''the cost of achieving such emission reduction'' limits the EPA to considerations of economic achievability, and not cost effectiveness, is misplaced. See *Husqvarna AB* v. *EPA,* 254 F. 3d 195, 200 (DC Cir. 2001) (cost effectiveness properly considered in evaluating cost of compliance under CAA section 213, a technology-based provision similar to section 112 (d)(2)). The commenter's further argument that the requirement in section 112 (d)(2) for standards to result in ''the maximum degree of reduction in emissions of hazardous air pollutants * * * achievable'' considering cost and other factors constrains the EPA's ability to consider cost-effectiveness or otherwise balance the statutory factors has likewise been rejected. See *Sierra Club* v. *EPA,* 325 F. 3d 374, 378 (DC Cir. 2003) (the EPA was left with great discretion in determining how to balance such factors when considering technology-based standards which are to result in maximum reductions achievable).

reasonable approach for increasing mercury removal efficiency.

C. Standards for Fugitive Emissions From Open Clinker Storage Piles

The EPA proposed that cement kilns control fugitive emissions from open clinker storage piles, defined at proposal as ''any clinker storage pile that is not completely enclosed in a building or structure''. These piles would be controlled through the use of work practices which minimized emissions by means of (among others) partial enclosure, damping down the pile by chemical or physical means or shielding piles from wind. These work practices were drawn from permits for existing cement kilns, and every cement kiln appears to already be utilizing some type of work practice to minimize fugitive emissions from open clinker storage piles. See 77 FR 42378. Cement kiln sources were allowed to select from among the specified work practices and choose those most suitable for its operations.

For both new and existing sources, the NESHAP is amended to require that one or more of the control measures identified in the rule be used to minimize fugitive dust emissions from open clinker storage piles. The work practices would apply to open clinker storage piles regardless of the quantity of clinker or the length of time that the clinker pile is in existence.

In addition, the owner or operator must include as part of their operations and maintenance plan (required in § 63.1347) the location of their open clinker storage piles and the fugitive dust control measures as specified in this rule that will be implemented to control fugitive dust emissions from open clinker piles. We agree with comments received that the list of allowed work practices reflects all of the available practices documented in cement kiln facility operating permits to control clinker storage pile fugitive emissions. The size, type and duration of a clinker pile may warrant different types of work practices. The final rule requires that one or more of a variety of work practices need to be employed, recognizing that the source will use the work practices that will be effective for the particular piles. Thus, the EPA has revised the list of work practices to be consistent with those listed in the proposal preamble. These are: Use of partial enclosures, using a water spray or fogging system, applying appropriate dust suppression agents, using a wind barrier and using a tarp. Commenters also requested that the EPA allow other work practices if approved by the delegated authority. Our regulations already provide procedures for sources to seek approval of alternative work practices. See section 112(h)(3) as implemented by 40 CFR 63.8(f).

Several industry commenters stated that the definition of clinker pile is problematic as proposed because it was not limited by size or duration. Commenters note that it is not uncommon for small amounts of clinker to be dropped, or to fall off a front-loader onto the ground when being moved from a kiln to a storage location or from such a location to the grinding mill. Because these are small amounts of clinker, it is also not uncommon that these small quantities of clinker will remain where they were dropped and may not be picked up or removed until the necessary manpower becomes available; in some cases this could be multiple days. Another industry commenter noted that because of the short-term duration of temporary clinker stockpiles, the use of work practices similar to those proposed for clinker storage piles is not feasible. The industry trade association suggested the following definition: ''Open clinker storage pile means an outdoor, unenclosed accumulation of clinker on the ground, which contains in excess of 50,000 tons of clinker, and is utilized for a continuous period in excess of 180 days.'' Under this suggested approach, only a clinker storage pile meeting this definition would be subject to the work practice standards.

We are not adopting this approach. We believe that the potential to emit may be different at different sites for a variety of reasons such as weather and traffic conditions. Nor did the commenter provide information indicating that open clinker storage piles of less than 50,000 tons or stored for less than 180 days are unlikely to produce fugitive emissions. Indeed, as a result of weather, traffic or other conditions, smaller piles stored for shorter periods have the evident potential to emit substantial levels of fugitive emissions. Nor is any such uniformly applicable distinction based on duration evident. Clinker piles can be temporary but be replaced by a new pile at the same (or nearby) location a few days later, with no essential difference in fugitive emissions.

Nonetheless, we believe that the commenter is correct that spills are unavoidable, and that work practices designed for non-temporary piles cannot feasibly be applied in such circumstances. The commenter is also correct that work practices used for non-temporary piles would be misapplied to temporary piles attributable to cleaning storage structures. For these reasons, the definition of ''open storage pile'' excludes these types of piles. Specifically, the definition of open clinker storage pile does not include temporary piles of clinker that are the result of accidental spillage or temporary use of outdoor storage while clinker storage buildings are being cleaned. This final rule defines ''temporary'' to mean piles that remain in place for 3 days or less from their generation (3 days accommodating weekend scheduling). This is sufficient time to either pick these spills up (the applicable work practice for these spills) or to cover them to prevent fugitive emissions.

These final amendments will result in a cost savings to the industry as compared to the 2010 rule. As a result of requiring work practices instead of enclosures, we estimate that there will be a savings of $8.25 million annually. See Final Portland Cement Reconsideration Technical Support Document, December 20, 2012, in this rulemaking docket.

D. September 9, 2015, Compliance Date for the Amended Existing Source Standards

The EPA proposed to establish September 9, 2015, as the compliance date for the amended existing source NESHAP standards. The basic reason for the proposed compliance date was that the proposed change in the PM standard made possible different compliance alternatives for all of the stack emission standards, and that it could legitimately take two years from the original compliance date to implement these new compliance strategies. See 77 FR 42385–87. Further, the amended compliance date would apply to all of the stack emission standards due to the interrelatedness of the standards: the mercury, THC and HCl standards all typically involve some element of PM generation and capture and so the controls must be integrated with PM control strategies. Id. at 42386.

The record for this final rule supports the need for the September 9, 2015 compliance date. With respect to PM control, as the EPA explained at proposal, plants now have the option of retaining electrostatic precipitators (ESP) with modification or downstream polishing baghouses, rather than replacing ESP with baghouses. Plants may also size baghouses differently (with or without incorporation of upstream or downstream polishing elements). The various types of sorbent injection strategies to control organics, mercury and HCl, are affected by the PM limits (and vice versa). Based on the facts of this record for this source

category, the type, size and aggressiveness of the controls for these HAP, as well as the PM controls, are not only interdependent but can all change as a result of the amended PM standard. In addition, the amended alternative oHAP standard affords additional compliance alternatives for control of non-dioxin organic HAP, including alternatives to use of Residual Thermal Oxidizers. See generally, Final Portland Cement Reconsideration Technical Support Document, section 3.1, December 2012, in the docket for this rulemaking.

Determining, developing, installing, testing and otherwise implementing a different comprehensive HAP control regime takes time. Specifically, plants will need to conduct engineering studies, determine the most cost-effective control strategy, seek contract bids, purchase equipment, install and test the new equipment. Below is an estimate of a timeline for a cement kiln to undertake these steps.

TIME NEEDED TO PREPARE FOR COMPLIANCE

[Docket item EPA–HQ–OAR–2011–0817–0505–A1]

Steps in preparing for compliance	Time period
New engineering study	January–April 2013.
Selection of technology providers	April–August 2013.
Technology procurement	August–December 2013.
Detailed technology design and final engineering	January–June 2014.
Equipment fabrication and permitting	June–December 2014.
Construction and tying into existing operation	January–May 2015.
Technology commissioning	June–August 2015.

One commenter, sharply opposing any change in compliance date, maintained that all of this reasoning is hypothetical and that such a consequential extension could not legitimately rest on speculation. The EPA disagrees that this analysis is speculative. First, the EPA's engineering judgment is that the changes in the PM standard and alternative oHAP standard, open up different compliance alternatives from those under the 2010 rule. The EPA has indicated what those alternatives can be, and the time needed to determine, purchase, install and test them. Comments from the affected industry are consistent with the EPA's engineering judgment as to the type of different compliance approaches now available for existing sources.

The EPA's engineering determinations as to the time needed for cement kilns to implement a different multi-HAP control strategy here are moreover consistent with the agency's long-standing analysis (i.e. analysis not specific to the cement industry) of the time needed to install multipollutant control systems. See US EPA, Engineering and Economic Factors Affecting the Installation of Control Technologies for Multipollutant Strategies, EPA–600/R–02/073, October 2002) (cited at 77 FR 42386). Therefore, the EPA estimated that it is normal for the development and implementation of new compliance measures to take between 15–27 months for single control systems, and longer for systems involving multiple controls for HAP and criteria pollutants, as is the case here.

The record to this rule also contains a survey of 92 of the 97 domestic cement kilns currently in operation. These survey results document, on a kiln by kiln basis, alternative engineering strategies now available to these kilns as a result of the amended PM standard and also documents the time each kiln estimates would be needed to carry out these new compliance strategies. See Comments of PCA, Appendix D (EPA–HQ–OAR–2011–0817–0505). For example, kiln B [12] has the option of modifying its ESP system using a hybrid ESP/baghouse filter system, or of using a cyclone upstream of the ESP. Steps needed to implement these possibilities include main stack evaluation, cooler stack testing, and evaluation, vendor/contractor selection, final design, equipment procurement and fabrication, startup and commissioning, and demonstrating compliance. The plant has already commenced some of these steps, but provides reasonable time estimates for why it would take until September 2015 to complete them. Kiln Q [13] expects to be able to retain its ESP system (whereas it could not under the 2010 final rule), but needs to resize its dust conveying system, upgrade the ESP, and utilize a larger activated carbon injection system differently from planned (since an ESP will not capture mercury as would a baghouse). Steps involved in developing and implementing a system include reviewing the structural integrity of the existing ESP, obtaining proposals on ESP upgrades, relocating an existing stack adjacent to the existing ESP, complete stack design, order equipment for ESP upgrades, order a new stack, contract construction, perform necessary construction, modify the ESP as needed, evaluate CEMS performance and conduct stack testing and make any adjustments to the integrated control system. Again, reasonable timelines for carrying out these steps are provided.

Neither the EPA nor the industry has said definitively what each kiln will do and how long it will take. Until the standards are finalized, no such definitive pronouncement is possible. However, the record is quite specific that additional control strategies are now possible; what the range of those new control strategies are; that the strategies are interrelated so that the standards for PM, organics, mercury and HCl are all implicated; and the time needed to carry out the various strategies. Thus, the commenter is mistaken that the record regarding the need for a compliance date of September 2015 is merely conjectural.

The EPA solicited comment on the possibility of a shorter extension for the stack emission standards, noting that by virtue of the 2010 final rule, the industry was not starting from scratch but could already undertake compliance steps. See 77 FR 42386/3. The survey results referred to above confirm that this is the case, since a number of plants (to their credit) indicated that they have taken preliminary steps toward compliance such as conducting stack testing, and testing various control strategies (e.g., survey results for kilns A, F and G). Nonetheless, many commenters made the evident point that this preliminary work could only go so far when there was uncertainty about

[12] For competitiveness reasons, kilns in this survey are identified by letter. The survey results are consistent with the EPA's engineering understanding and judgment, and the EPA has no reason to dispute the overall survey results (although some details may be open to question).

[13] These examples were chosen at random by the EPA from the survey information provided in the comment.

the final standard and uncertainty around which standard would determine their final control strategy. Moreover, even those plants which had begun preliminary compliance steps indicated (with specific timelines provided) that the remaining work would legitimately stretch through the summer of 2015.

This same record refutes those comments maintaining that an even longer compliance extension is needed. Not only is this inconsistent with the EPA's own estimates, but the industry survey results document that no further time is needed. See CAA section 112(i)(3)(A) (compliance with CAA section 112(d) standards to be as expeditious as practicable). Therefore, the EPA is revising the compliance date for existing sources for PM, THC, HCl, and Hg to be September 9, 2015.

However, the EPA is establishing February 12, 2014, as the compliance date for the standards for existing open clinker piles. These standards are not inter-related to the stack emission standards, and so need not be on the same timeline. The work practices we are adopting as the standards reflect practices already in place throughout the entire industry. The time needed to come into compliance consequently is to establish a reporting and recordkeeping apparatus, and in some instances to obtain approval (after appropriate demonstration) to use work practices not enumerated in the standard. The EPA estimates that these various steps should not exceed twelve months. Since section 112(i)(3)(A) requires compliance to be as expeditious as practicable, the EPA is establishing a 12 month compliance period for these standards.

A compliance date for an amended standard must still be ''as expeditiou[s] as practicable'' and not more than 3 years. We believe a compliance extension is appropriate where, as here, for the stack emission standards, the amended result in a compliance regime differs from the initial rule and additional time is needed to develop, install, and implement the controls needed to meet the amended standard. The EPA has shown that to be the case here, as explained above.

The Sierra Club in its comments also argued that the EPA could not change the 2013 compliance date in the 2010 final rule as a matter of law. The commenter rests this argument on CAA sections 112(d)(7) and 112(i)(3)(A). We have responded above to the argument based on section 112(d)(7). Section 112(d)(7) simply is not an anti-backsliding provision (or, at the least, does not have to be interpreted that way).

CAA Section 112(i)(3)(A) states in relevant part:

''[a]fter the effective date of any emissions standard, limitation or regulation * * * the Administrator shall establish a compliance date or dates for each category or subcategory of existing sources, which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard''.

In *NRDC* v. *EPA (Plywood MACT)*, 489 F. 3d 1364, 1373–74 (D.C. Cir. 2007) the court held that ''only the effective date of Section 112 emissions standards matters when determining the maximum compliance date.'' 489 F. 3d at 1373 (emphasis original). The EPA, therefore, lacked authority to extend the compliance date when it was only adjusting reporting terms. Id. at 1374. The opinion implies, however, that the EPA may reset the compliance date when the EPA amends the actual standard, as here. If the statute provided an absolute bar on the EPA extending an effective date, there was no reason for the court to distinguish the situation where the EPA amends some ancillary feature of the rule from the situation where the EPA amends the actual standard.[14]

The reason it makes sense for the EPA to have the authority to reestablish a compliance date when it amends a MACT standard is evident. In a technology-based regime like section 112(d), if the technology basis of the standard changes with a change of the standard, it takes time to adopt the revised controls. This result fits the statutory text.

Where the EPA has amended an existing source MACT standard, the compliance date for that amended standard must be as expeditious as practicable, and no later than 3 years from its effective date. Sierra Club argues that the original standard (the one that has been amended) must nonetheless take effect, but that standard no longer exists. It has been amended. Moreover, the result of Sierra Club's approach would force sources to install one technology and rip it out in short order to install another. Congress cannot have mandated this result. See *PCA* v. *EPA,* 655 F. 3d at 189 (staying NESHAP standards for clinker piles—that is, effectively extending their compliance date—because ''the standards could likely change substantially. Thus, industry should not have to build expensive new containment structures until the standard is finally determined.'')[15] [16] Moreover, in the extreme case where the initial standard was outright technically infeasible by any source (and was amended by the EPA to correct this defect), Sierra Club's reading would leave sources with literally no legitimate compliance option.[17] Technology-based standards simply do not work this way.

[14] Sierra Club maintains that because the revisions to the PM standard leave that standard nearly as stringent as the 2010 standard, all that has effectively changed is the standard's averaging time. Sierra Club likens this situation to the amendments to ancillary provisions like reporting at issue in *Plywood MACT.* This is incorrect. First, as explained in section V.A. above, the standard did increase numerically as a result of removing commercial incinerators from the database. Portland Cement Reconsideration Technical Support Document, June 15, 2012, Docket item EPA–HQ–OAR–2011–0817–0225. Second, although the amended PM standard is relatively as stringent as the 2010 standard (75 FR 54988/2 and 77 FR 42389/3), it nonetheless affords different compliance options for all of the standards, as explained above and in further detail in the Response to Comment document. The standard allows flexibility for those days when emissions increase as a result of normal operating variability, without significantly affecting the long-term average performance for PM and affords different compliance opportunities as a result. Nor does the commenter consider the amendment to the alternative oHAP standard, which amendment likewise affords new compliance opportunities.

[15] In a variant of this argument, Sierra Club maintains that in a situation where the compliance date for an initial existing source MACT standard has not yet passed and the EPA amended that standard to make it more stringent, the EPA would nonetheless leave the predecessor less stringent standard in place and require compliance with it. Although this situation has not arisen, the EPA would presumably be governed by the same principle noted by the *PCA* court: is the technology basis for the standard changing in such a way as to require more time for compliance and in a way that negates the compliance strategy of the initial rule. (Of course, if the compliance date of a standard has already occurred and a standard is later amended, that compliance date would not change retroactively.)

[16] Sierra Club maintains that *PCA* is distinguishable because it involved a standard which the EPA was compelled to change. First, the comment is factually mistaken. The EPA had granted reconsideration of the clinker pile standards but had not indicated that the standards would be amended. See 76 FR 28325/1 (May 17, 2011). Nor did the court indicate that the pile standards must change. Rather, ''[b]ecause EPA will now be receiving comments for the first time, the standards *could* likely change substantially.'' 655 F. 3d at 189 (emphasis supplied). Thus, the court effectively reset the compliance date because of a potential future change in the rule which could result in a compliance regime which differed from that in the 2010 final rule. This is directly parallel to the situation now presented by the amended PM and alternative oHAP standards.

[17] An example is the startup and shutdown standard for HCl in the 2010 final rule. The EPA established this standard as zero on the mistaken assumption that no chlorine could be present in the kiln during there periods. See 76 FR 28325 (granting consideration on this basis). The commenter's approach would leave this technically infeasible standard and its compliance date in place without recourse.

E. Eligibility To Be a New Source Under NESHAP

CAA section 112(a)(4) states that a new source is a stationary source if ''the construction or reconstruction of which is commenced after the Administrator first proposes regulations under this section establishing an emissions standard applicable to such source.'' As we explained previously, there is some ambiguity in the language ''first proposes'' and such language could refer to different dates in different circumstances, such as the first time the Agency proposes any standards for the source category, the first time the Agency proposes standards under a particular rulemaking record for the source category, or the first time the Agency proposes a particular standard.

In the proposed reconsideration rule, the EPA proposed to retain May 6, 2009, as the date which determines new source eligibility and solicited comment on this issue. Industry commenters stated that we should change the date for determining new source status from May 9, 2009 to July 18, 2012, the date of the proposed reconsideration rule. In support, they asserted that they will not know what the final standards are until we finalize the reconsideration rule. We disagree with the commenters' suggestion and are retaining the May 6, 2009 date as the date that determines whether a source is a new source under CAA section 112(a)(4).

As we explained at proposal, it is reasonable to retain the May 6, 2009 date as the date the Agency ''first proposed'' standards for this source category. This is the date that EPA first proposed these standards under this particular rulemaking record. Today's action is a reconsideration action, and although it revises the particulate matter new source standard, it is premised on the same general rulemaking record. It is thus reasonable to view the date EPA ''first proposes'' standards to be the May 2009 date. Further, industry commenters essentially advocate an approach whereby any time the Agency changes a new source standard, in any way, on reconsideration, the new source trigger date would change. Such a result is not consistent with Congress' intent in defining the term ''new source'' in section 112(a)(4), to be the date the Agency ''first proposes'' standards. Furthermore, EPA notes that the new source standards finalized today are ones that will be met, in our view, using the same or similar control technologies as would be used to meet the standards issued in May 2010, and commenters have not disputed this conclusion. See 77 FR 42387.

VI. Summary of Cost, Environmental, Energy and Economic Impacts

A. What are the affected sources?

As noted in the proposed rule, the EPA estimates that by 2013 there will be 100 Portland cement manufacturing facilities located in the U.S. and Puerto Rico that are expected to be affected by this final rule, and that approximately 5 of those facilities are new greenfield facilities. All these facilities will operate 156 cement kilns and associated clinker coolers. Of these kilns, 23 are CISWI kilns. These have been removed from our data set used to establish existing source floors. Based on capacity expansion data provided by the PCA, by 2013 there will be 16 kilns and their associated clinker coolers subject to NESHAP new source emission limits for PM, mercury, HCl and THC, and 7 kilns and clinker coolers subject to the amended NSPS for nitrogen oxide and SO_2. Some of these new kilns will be built at existing facilities and some at new greenfield facilities.

B. How did the EPA evaluate the impacts of these amendments?

For these final amendments, we determined whether additional control measures, work practices and monitoring requirements would be required by cement manufacturing facilities to comply with the amended rules, incremental to the 2010 final standards (since any other comparison would result in double counting). For any additional control measure, work practice or monitoring requirement we determined the associated capital and annualized cost that would be incurred by facilities required to implement the measures. Finally, we considered the extent to which any facility in the industry would find it necessary to implement any of the additional measures in order to comply with these final amendments. Using this approach, we assessed potential impacts from the proposed revisions.

These final amendments to the 2010 rule are expected to result in lower costs for the Portland cement industry. The final amendment to the PM standard affords alternative, less costly compliance opportunities for existing sources. See section V.D above. These could be utilizing existing PM control devices rather than replacing them (for example, retaining an ESP or a smaller baghouse), or supplementing existing PM control rather than replacing it (putting polishing controls ahead of the primary PM control device, for instance). Compliance strategies for the other HAP, all of which involve some element of PM control, also may be affected. Cost savings from these alternatives could be significant. There are also potential cost savings associated with the amended oHAP alternative standard (which now may be a viable compliance alternative for some sources since issues of reliable analytic measurement have been resolved). Following proposal, industry submitted kiln specific information on likely changes in compliance strategy resulting from the proposed amendments so that we are now better able to estimate potential savings resulting from the final amendments. Based on an industry survey of 18 Portland cement facilities (20 kilns) after proposal (see Docket item EPA–HQ–OAR–2011–0817–0505, Appendix D), it appears that the amendments may have the following effects, which may result in savings in capital and annual costs associated with implementing control technologies for these pollutants:

- Regenerative thermal oxidizers (RTO) may not need to be installed due to the amended oHAP alternative.
- Carbon injection rates may be lowered or not required for THC control.
- Existing PM controls (ESP and baghouse) may not need to be replaced, but may instead be upgraded.
- Additional PM controls may not have to be implemented.
- Polishing and hybrid filter configurations may be implemented instead of total replacements.

There are also certain costs, and cost savings, associated with other provisions of the final amendments. There may be a difference in costs of stack testing for PM and use of a CPMS, rather than use of a PM CEMS. In addition, there are cost savings when changing from a PM CEMS compliance demonstration to a CPMS demonstration. For example as part of the PS 11 calibration requirements, a minimum of 15 Method 5 test runs are required to develop a correlation curve, with no limit to the maximum number of test runs. Omitting the need for these multiple test runs will save the facility a minimum of $20,000 per kiln (each Method 5 test costs $5,000). At a savings of $20,000 per kiln, nationwide savings for 133 new and existing kilns, would be $2.7 million per year. However, the CPMS is the same type of device as a PM CEMS, so the capital cost of the CPMS would not be significantly different than the CEMS device.

The final revisions to the alternative organic HAP standard (from 9 ppm to 12 ppm, reflecting the analytic method practical quantitation limit) would allow more sources to select this compliance alternative and demonstrate compliance without needing to install

very expensive and energy-intensive RTO. In addition, providing parametric monitoring flexibilities (not present in the 2010 final rule) will provide lower costs for the better-performing sources in the industry. See section IV.B above. We have quantified these savings (see Final Portland Cement Reconsideration Technical Support Document, December 20, 2012, Section 3).

The revisions to the standard for open clinker storage piles codify current fugitive dust control measures already required by most states, so no impacts are expected. These final standards would be significantly less expensive than the controls for open piles in the 2010 final rule, which required enclosures in all instances. We estimate that the savings to industry over the 2010 rule will be $8.25 million annually. See Final Portland Cement Reconsideration Technical Support Document, December 20, 2012, in this rulemaking docket.

We have estimated the additional industry cost associated with the affirmative defense to civil penalties provisions. We estimate the additional cost is $3,258 per year for the entire industry. See Supporting Statement in the docket.

One of the final revisions would allow sources that control HCl with dry scrubbers to use periodic performance testing and parametric monitoring rather than monitoring compliance with an HCl CEMS. This will provide those sources with additional flexibility in complying with the HCl standard.

The revision to the alternative PM emissions limit provisions merely recognizes that sources other than the clinker cooler may combine their exhaust with the kiln exhaust gas and corrects the equation for calculating the alternative limit. Therefore, there should be no impacts from this revision.

The amendments provide for work practices rather than numerical standards during periods of startup and shutdown. The work practice standards reflect common industry practices, so there should be no costs associated with them. There should also be substantial savings associated with the work practices.

At an annual cost of about $51,000 per year ($22,800 per Method 30B test for mercury + $8,000 per year for Method 25A test for THC + $20,000 per year for Method 321 test for HCl), the final revisions for new testing and monitoring of coal mills that use kiln exhaust gases to dry coal and exhaust through a separate stack are not expected to have significant impacts.

The revisions would make existing kilns that undergo a modification, as defined by NSPS, subject to a PM standard of 0.07 lb/ton clinker, 3-run average. There may be less costly compliance alternatives under the amended standard, similar to alternatives available under the amended existing source NESHAP for PM.

C. What are the air quality impacts?

In these final amendments, emission limits for mercury, THC and HCl are unchanged from the 2010 rule. Thus, there is no change in emissions from the 2010 rule for these HAP and HAP surrogates. The alternative HAP organic standard is being amended to 12 ppm, which is the analytic method practical quantitation limit based on the performance test method detection limit of 4 ppm. The impact on emission levels due to this change is not clear since measuring below the quantitation limit does not yield a value with enough certainty to represent the actual level. Thus, a measurement below 12 ppm could very well actually be 12 ppm or something less. For PM, the limit for existing sources changes from 0.04 lb/ton clinker 30-day average to 0.07 lb/ton clinker based on stack testing. The PM limit for new sources also changed: To 0.02 lb/ton clinker stack test from 0.01 lb/ton clinker 30-day average. The final changes in the PM standards, while not significant in absolute terms, may result in a small increase in total nationwide emissions by allowing slightly more variability, although, as noted at proposal, we estimate that design values will be essentially identical under the 2010 and this final standard. 77 FR 42389. As explained in the impacts analysis for the 2010 rule (see Docket item EPA–HQ–OAR–2002–0051–3438), emission reductions were estimated by comparing baseline emissions to the long-term average emissions of the MACT floor kilns. As a practical matter, plants operate to comply with this lower average emissions level (the so-called design level), rather than the emissions limit, so that on those days where there is normal operating variability they do not exceed the emissions limit. See 77 FR 42386–87. Under the 2010 rule, the average PM emissions from the existing floor kilns were 0.02296 lb/ton clinker. Under the amended standard, the average PM emissions of the existing floor kilns is calculated to be 0.02655 lb/ton clinker although, as noted, this difference is less than the normal analytic variability in PM measurement methods and so must be viewed as directional rather than precisely quantitative. The average emissions for new kilns did not change as we believe new sources will have to adopt identical control strategies as under the promulgated standards. We, therefore, are not estimating an emission increase from new kilns. For existing kilns, with an increase in PM emissions under this final rule of 0.00359 lb/ton clinker compared to the 2010 rule, nationwide emissions of PM would increase by 138 tons per year ($0.00359 \times 76{,}664{,}662/2000$). Thus, the EPA estimates that the main effect of this final rule for PM will be to provide flexibility for those days when emissions increase as a result of normal operating variability, but would not significantly alter long-term average performance for PM. Nonetheless, as explained in section V.D above, this change does allow for changes in compliance strategies in the form of types, sizes and sequencing of treatment trains.

Emission reductions under the 2010 rule and this final rule, in 2015, are compared in Table 4.

TABLE 4—COMPARISON OF NATIONWIDE PM EMISSIONS FROM 2010 RULE TO FINAL RULE IN 2015

	Kiln type	2010 rule	Final rule	Increment
Emissions limit (lb/ton clinker	Existing	0.04 (30-day average with a CEMS).	0.07 (3-run stack test)	NA
MACT average emissions for compliance (lb/ton clinker.	Existing	0.02296	0.02655	0.00359
2010 baseline emissions (CISWI kilns removed) (tons/yr).		11,433	11,433	NA
Nationwide emissions reduction (tons/yr)	Total	10,540	10,402	−138

One commenter noted that the compliance extension will result in two additional years of HAP emissions at pre-standard levels, noting especially the emission of PM, noting further that fine PM ($PM_{2.5}$) is causally associated with mortality and serious morbidity effects at a population level. See, e.g., 77 FR 38909 (June 29, 2012). We note first that these rules are technology-based, not risk-based, and that there are compelling reasons to amend the PM standard and to establish new compliance dates for existing sources as a result of technological limitations with the 2010 rule PM standard, and the new compliance opportunities afforded as a result of the amendment to that standard. See section V.D above. We also question the commenter's premise that all of the predicted emission reductions and benefits would accrue if the existing source CEM-based PM standards took effect in September 2013. As explained at length in section V.A above and in other comment responses, PM CEMS would not reliably measure the level of the PM standard in many instances. One cannot assume the full range of emission reductions (and consequent health benefits) would accrue in the real world if the emission measurements themselves are uncertain. Thus, in a meaningful sense, today's amendments result in a regime where the required emission reductions will be reliably measured, so that the rule's health benefits will reliably occur.

D. What are the water quality impacts?

At proposal, we believed that none of the amendments being proposed would have significant impacts on water quality and that to the extent that the revision affecting dry caustic scrubbers encourages their use, some reduction in water consumption may occur although we had no information upon which to base a quantified estimate. We received no comments questioning this assessment. Further, in reviewing the industry survey information on the impacts of the proposed changes, only 1 of the 20 kilns for which information was provided was considering the addition of a wet scrubber, although it was also evaluating a dry scrubber (see docket item EPA–HQ–OAR–2011–0817–0505, Appendix D, kiln S). Therefore, we continue to believe that these final amendments will not significantly impact water quality.

E. What are the solid waste impacts?

None of the amendments being finalized with this final rule are expected to have any solid waste impacts.[18]

F. What are the secondary impacts?

Indirect or secondary air quality impacts include impacts that will result from the increased electricity usage associated with the operation of control devices as well as water quality and solid waste impacts (which were just discussed) that will occur as a result of these amendments. Because we are finalizing revisions that slightly reduce the stringency of the existing source emission limits for PM from the promulgated 2010 limits, we project that some facilities will alter their strategy for complying with the standards for the four pollutants to achieve compliance at a lower cost than possible under the original standard. The survey results discussed in section V.D above confirm the EPA's engineering judgment. Other facilities in the survey that were not able to meet the THC limit or the alternative organic HAP limit in the 2010 rule were considering the installation of RTO. Because some of these facilities may now meet the limit without the installation of an RTO, we have estimated a reduction of 24,702 tons per year less CO_2 emissions being emitted to the atmosphere (equivalent to 2 less RTO's being installed). As a result of the organic HAP limit being revised from 9 ppm to 12 ppm, these sources responded that they now had other less costly alternatives. The additional compliance time was also cited as a factor that would gives sources the additional time they needed to consider other HAP control alternatives to RTO. As the industry survey highlights, these types of determinations will be made for each facility based on site-specific characteristics such as process type, equipment age, existing air pollution controls, raw material and fuel characteristics, economic factors and others. In general, this survey indicates that the combination of the revised limits for PM and organic HAP as well as the September 2015 compliance date will give sources the opportunity to develop less costly and less aggressive compliance strategies. We do not have enough information to quantify the impact of overall secondary impacts, (with the exception of the CO_2 reductions noted above), but we believe the impacts would in fact be reduced relative to the 2010 rule since less energy is expected to be needed for facilities that can retain and upgrade their current controls, instead of for example, installing additional controls in series.

G. What are the energy impacts?

As discussed in the preceding section, because of the final revisions to the PM emission limits, the organic HAP limits and the compliance date extension, some facilities will develop more cost effective and less energy intensive compliance strategies. For three of the facilities (five kilns) that were part of the industry survey, all five kilns required significant changes to meet the 2010 THC standard, in part because they were not pursuing the alternative organic HAP alternative standard due to analytic measurement uncertainties. See docket item EPA–HQ–OAR–2011–0817–0505, Appendix D (kilns A, C and D, and F and G). Prior to the proposed revisions, all five of the kilns were considering RTO as a control option as well as other options including catalytic ceramic filtration, a relatively new technology and as yet, not completely demonstrated technology for the cement industry. In response to the survey of what changes, if any, the facilities would make in response to the proposed revisions, all three facilities indicated that the amended organic HAP limit or the September 2015 compliance date allowed them to consider the use of less capital intensive alternatives and to continue testing alternatives for THC reduction other than the highly energy-intensive RTO for the five kilns involved. Although we cannot accurately predict for the entire industry the extent to which these site-specific compliance strategies may affect energy demands, the industry survey results indicate a trend toward less energy intensive strategies than RTO, and as noted above, we predict a reduction in CO_2 emissions due to less energy use as a result of two fewer kilns installing RTOs.

H. What are the cost impacts?

Under the cost scenario discussed above, we estimate that there could be savings of approximately $52 million associated with alternative compliance strategies for meeting amended PM standards, making corresponding adjustments in compliance strategies for the organic HAP and requiring work practice for open clinker storage piles. Table 5 summarizes the costs and emissions reductions of this final action.

[18] Although dust shuttling is likely to be one element of mercury compliance strategy, the amount of dust shuttling would not increase incremental to the 2010 final rule since the standards for new and existing sources are the same in the 2010 final rule and these amendments. Moreover, as explained in section V.B above, even with respect to the high mercury feed source, dust shuttling entails moving dust from within the kiln to other parts of the process and is considered a closed loop process, thereby not causing any waste impacts.

TABLE 5—SUMMARY OF THE COSTS AND EMISSION REDUCTIONS OF THE FINAL AMENDMENTS TO THE PORTLAND CEMENT MANUFACTURING INDUSTRY NESHAP RELATIVE TO THE 2010 RULE [a b c d e]

Proposed amendment	Annualized cost	PM emissions reduction 2010 rule	PM emissions reduction 2012 rule	Emission change tpy
Revised PM, oHAP standard	($42.2 million) [f]	10,540 tons	10,402 tons	138 increase.
Replace PM CEMS with PM CPMS	($2.7 million)	0.		
Coal Mill Testing	$1.3 million	0.		
Open clinker storage pile work practices	($8.25 million)	0.		
Total	($51.85 million).			

[a] Parentheses indicate cost savings. All costs are in 2005 dollars.
[b] We also estimate that there will be a one-time cost of $25,000 for each facility to revise their operation and maintenance plan to include procedures to minimize emissions during periods of startup and shutdown.
[c] Emissions reductions are the total once full compliance is achieved in 2015.
[d] Full compliance costs will not occur until September 9, 2015.
[e] Note emission reductions published in the 2010 rule included CISWI kilns, but the reductions in this table reflect reductions since CISWI kilns were removed from the database.
[f] Includes cost savings due to revised PM standard.

The cost information in Table 5 is in 2005 dollars at a discount rate of 7 percent. The EPA did not have sufficient information to quantify the overall change in benefits or impacts in emissions for 2013 to 2015.

With regard to the coal mill monitoring requirements in this action, sources with integral coal mills that exhaust through a separate exhaust would potentially incur a capital cost of $36,000 to install a continuous flow meter. The annualized cost of a flow meter is $11,000. Because this final rule allows the use of maximum design flow rate instead of installing flow meters, we believe that most facilities will take advantage of this and will not incur these costs. Annual testing at these coal mills for mercury, THC and HCl will cost about $51,000 ($22,800 per Method 30B test for mercury + $8,000 per year for Method 25A test for THC + $20,000 per year for Method 321 test for HCl). Using information supplied by the industry (see docket item EPA–HQ–OAR–2011–0817–0612), approximately 26 facilities would be affected by these requirements for an annual cost of $1.3 million. Costs for coal mills to meet the PM limits for this NESHAP are not included, since all equipment and monitoring are in place to meet requirements of Subpart Y and thus are not considered additional costs.

With the final change to PM CPMS instead of CEMS, it is estimated that the elimination of the PS correlation tests will result in a savings of $20,000 per kiln.

I. What are the health effects of these pollutants?

In this section, we provide a qualitative description of benefits associated with reducing exposure to $PM_{2.5}$, HCl and mercury. Controls installed to reduce HAP would also reduce ambient concentrations of $PM_{2.5}$ as a co-benefit. Reducing exposure to $PM_{2.5}$ is associated with significant human health benefits, including avoiding mortality and morbidity from cardiovascular and respiratory illnesses. Researchers have associated $PM_{2.5}$ exposure with adverse health effects in numerous toxicological, clinical and epidemiological studies (U.S. EPA, 2009).[19] When adequate data and resources are available and a regulatory impact analysis (RIA) is required, the EPA generally quantifies several health effects associated with exposure to $PM_{2.5}$ (e.g., U.S. EPA, 2011).[20] These health effects include premature mortality for adults and infants, cardiovascular morbidities such as heart attacks, hospital admissions and respiratory morbidities such as asthma attacks, acute and chronic bronchitis, hospital and emergency department visits, work loss days, restricted activity days and respiratory symptoms. Although the EPA has not quantified certain outcomes including adverse effects on birth weight, pre-term births, pulmonary function and other cardiovascular and respiratory effects, the scientific literature suggests that exposure to $PM_{2.5}$ is also associated with these impacts (U.S. EPA, 2009). $PM_{2.5}$ also increases light extinction, which is an important aspect of visibility (U.S. EPA, 2009).

HCl is a corrosive gas that can cause irritation of the mucous membranes of the nose, throat and respiratory tract. Brief exposure to 35 ppm causes throat irritation, and levels of 50 to 100 ppm are barely tolerable for 1 hour.[21] The greatest impact is on the upper respiratory tract; exposure to high concentrations can rapidly lead to swelling and spasm of the throat and suffocation. Most seriously exposed persons have immediate onset of rapid breathing, blue coloring of the skin and narrowing of the bronchioles. Exposure to HCl can lead to RADS, a chemically- or irritant-induced type of asthma. Children may be more vulnerable to corrosive agents than adults because of the relatively smaller diameter of their airways. Children may also be more vulnerable to gas exposure because of increased minute ventilation per kilograms and failure to evacuate an area promptly when exposed. HCl has not been classified for carcinogenic effects.[22]

Mercury in the environment is transformed into a more toxic form, methylmercury (MeHg). Because mercury is a persistent pollutant, MeHg accumulates in the food chain, especially the tissue of fish. When people consume these fish, they consume MeHg. In 2000, the National

[19] U.S. Environmental Protection Agency (U.S. EPA). 2009. *Integrated Science Assessment for Particulate Matter* (Final Report). EPA–600–R–08–139F. National Center for Environmental Assessment-RTP Division. Available on the Internet at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546*.

[20] U.S. Environmental Protection Agency (U.S. EPA). 2011. Regulatory Impact Analysis for the Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States; Correction of SIP Approvals for 22 States. Office of Air and Radiation, Research Triangle Park, NC. Available on the Internet at *http://www.epa.gov/airtransport/pdfs/FinalRIA.pdf.*

[21] Agency for Toxic Substances and Disease Registry (ATSDR). Medical Management Guidelines for Hydrogen Chloride. Atlanta, GA: U.S. Department of Health and Human Services. Available online at *http://www.atsdr.cdc.gov/mmg/mmg.asp?id=758&tid=147#bookmark02*.

[22] U.S. Environmental Protection Agency (U.S. EPA). 1995. Integrated Risk Information System File of Hydrogen Chloride. Research and Development, National Center for Environmental Assessment, Washington, DC. This material is available electronically at *http://www.epa.gov/iris/subst/0396.htm.*

Academy of Science (NAS) Study was issued which provides a thorough review of the effects of MeHg on human health (National Research Council (NRC), 2000).[23] Many of the peer-reviewed articles cited in this section are publications originally cited in the MeHg Study. In addition, the EPA has conducted literature searches to obtain other related and more recent publications to complement the material summarized by the NRC in 2000.

In its review of the literature, the NAS found neurodevelopmental effects to be the most sensitive and best documented endpoints and appropriate for establishing an oral reference dose (RfD) (NRC, 2000); in particular NAS supported the use of results from neurobehavioral or neuropsychological tests. The NAS report noted that studies in animals reported sensory effects as well as effects on brain development and memory functions and support the conclusions based on epidemiology studies. The NAS noted that their recommended endpoints for an RfD are associated with the ability of children to learn and to succeed in school. They concluded the following: ''The population at highest risk is the children of women who consumed large amounts of fish and seafood during pregnancy. The committee concludes that the risk to that population is likely to be sufficient to result in an increase in the number of children who have to struggle to keep up in school.''

The NAS summarized data on cardiovascular effects available up to 2000. Based on these and other studies, the NRC concluded that ''Although the data base is not as extensive for cardiovascular effects as it is for other end points (i.e. neurologic effects) the cardiovascular system appears to be a target for MeHg toxicity in humans and animals.'' The NRC also stated that ''additional studies are needed to better characterize the effect of methylmercury exposure on blood pressure and cardiovascular function at various stages of life.''

Additional cardiovascular studies have been published since 2000. The EPA did not to develop a quantitative dose-response assessment for cardiovascular effects associated with MeHg exposures, as there is no consensus among scientists on the dose-response functions for these effects. In addition, there is inconsistency among available studies as to the association between MeHg exposure and various cardiovascular system effects. The pharmacokinetics of some of the exposure measures (such as toenail mercury levels) are not well understood. The studies have not yet received the review and scrutiny of the more well-established neurotoxicity data base.

The Mercury Study[24] noted that MeHg is not a potent mutagen but is capable of causing chromosomal damage in a number of experimental systems. The NAS concluded that evidence that human exposure to MeHg caused genetic damage is inconclusive; they note that some earlier studies showing chromosomal damage in lymphocytes may not have controlled sufficiently for potential confounders. One study of adults living in the Tapajós River region in Brazil (Amorim et al., 2000) reported a direct relationship between MeHg concentration in hair and DNA damage in lymphocytes; as well as effects on chromosomes.[25] Long-term MeHg exposures in this population were believed to occur through consumption of fish, suggesting that genotoxic effects (largely chromosomal aberrations) may result from dietary, chronic MeHg exposures similar to and above those seen in the Faroes and Seychelles populations.

Although exposure to some forms of mercury can result in a decrease in immune activity or an autoimmune response (ATSDR, 1999), evidence for immunotoxic effects of MeHg is limited (NRC, 2000).[26]

Based on limited human and animal data, MeHg is classified as a ''possible'' human carcinogen by the International Agency for Research on Cancer (IARC, 1994) and in Integrated Risk Information System (IRIS) (U.S. EPA, 2002).[27] [28] The existing evidence supporting the possibility of carcinogenic effects in humans from low-dose chronic exposures is tenuous. Multiple human epidemiological studies have found no significant association between mercury exposure and overall cancer incidence, although a few studies have shown an association between mercury exposure and specific types of cancer incidence (e.g., acute leukemia and liver cancer) (NRC, 2000).

There is also some evidence of reproductive and renal toxicity in humans from MeHg exposure. However, overall, human data regarding reproductive, renal and hematological toxicity from MeHg are very limited and are based on either studies of the two high-dose poisoning episodes in Iraq and Japan or animal data, rather than epidemiological studies of chronic exposures at the levels of interest in this analysis.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises novel legal or policy issues. Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action. An RIA was prepared for the September 2010 final rule and can be found at: *http://www.epa.gov/ttn/ecas/regdata/RIAs/portlandcementfinalria.pdf. http://www.epa.gov/ttn/ecas/regdata/RIAs/portlandcementfinalria.pdf.*

B. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to the OMB under the *Paperwork Reduction Act,* 44 U.S.C. 3501, *et seq.*

The Information Collection Request (ICR) document prepared by the EPA has been assigned the EPA ICR number 1801.11 for the NESHAP; there are no additional recordkeeping and reporting requirements for the NSPS. The information requirements are based on notification, recordkeeping and reporting requirements in the NESHAP

[23] National Research Council (NRC). 2000. *Toxicological Effects of Methylmercury.* Washington, DC: National Academies Press.

[24] U.S. Environmental Protection Agency (U.S. EPA). 1997. *Mercury Study Report to Congress,* EPA–HQ–OAR–2009–0234–3054. December. Available on the Internet at *http://www.epa.gov/hg/report.htm.*

[25] Amorim, M.I.M., D. Mergler, M.O. Bahia, H. Dubeau, D. Miranda, J. Lebel, R.R. Burbano, and M. Lucotte. 2000. Cytogenetic damage related to low levels of methyl mercury contamination in the Brazilian Amazon. An. Acad. Bras. Science. 72(4): 497–507.

[26] Agency for Toxic Substances and Disease Registry (ATSDR). 1999. Toxicological Profile for Mercury. U.S. Department of Health and Human Services, Public Health Service, Atlanta, GA.

[27] U.S. Environmental Protection Agency (EPA). 2002. Integrated Risk Information System (IRIS) on Methylmercury. National Center for Environmental Assessment. Office of Research and Development. Available online at *http://www.epa.gov/iris/subst/0073.htm.*

[28] International Agency for Research on Cancer (IARC). 1994. IARC Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements: Beryllium, Cadmium, Mercury, and Exposures in the Glass Manufacturing Industry. Vol. 58. Jalili, H.A., and A.H. Abbasi. 1961. Poisoning by ethyl mercury toluene sulphonanilide. Br. J. Indust. Med. 18(Oct.):303–308 (as cited in NRC 2000).

General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emissions standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

We are finalizing new paperwork requirements for the Portland Cement Manufacturing source category in the form of a requirement to incorporate work practices for periods of startup and shutdown and fugitive dust control measures for clinker piles into their existing operations and maintenance plan.

This final rule also includes new paperwork requirements for recordkeeping of malfunctions, as described in 40 CFR 63.454(g) (conducted in support of the affirmative defense provisions, as described in 40 CFR 63.456).

When a malfunction occurs, sources must report the event according to the applicable reporting requirements of 40 CFR part 63, subpart LLL. An affirmative defense to civil penalties for violations of emission limits that are caused by malfunctions is available to a source if it can demonstrate that certain criteria and requirements are satisfied. The criteria ensure that the affirmative defense is available only where the event that causes a violation of the emission limit meets the narrow definition of malfunction in 40 CFR 63.2 (sudden, infrequent, not reasonable preventable and not caused by poor maintenance and or careless operation) and where the source took necessary actions to minimize emissions. In addition, the source must meet certain notification and reporting requirements. For example, the source must prepare a written root cause analysis and submit a written report to the Administrator documenting that it has met the conditions and requirements for assertion of the affirmative defense.

The EPA is adding the paperwork and recordkeeping associated with the affirmative defense to civil penalties for malfunctions to the estimate of burden in the ICR. To provide the public with an estimate of the relative magnitude of the burden associated with an assertion of the affirmative defense position adopted by a source, the EPA has provided administrative adjustments to the ICR that show what the notification, recordkeeping and reporting requirements associated with the assertion of the affirmative defense might entail. The EPA's estimate for the required notification, reports and records for any individual incident, including the root cause analysis, totals $3,258, and is based on the time and effort required of a source to review relevant data, interview plant employees and document the events surrounding a malfunction that has caused a violation of an emissions limit. The estimate also includes time to produce and retain the record and reports for submission to the EPA. The EPA provides this illustrative estimate of this burden because these costs are only incurred if there has been a violation and a source chooses to take advantage of the affirmative defense.

Given the variety of circumstances under which malfunctions could occur, as well as differences among sources' operation and maintenance practices, we cannot reliably predict the severity and frequency of malfunction-related excess emissions events for a particular source. It is important to note that the EPA has no basis currently for estimating the number of malfunctions that would qualify for an affirmative defense. Current historical records would be an inappropriate basis, as source owners or operators previously operated their facilities in recognition that they were exempt from the requirement to comply with emissions standards during malfunctions. Of the number of excess emissions events reported by source operators, only a small number would be expected to result from a malfunction (based on the definition above), and only a subset of violations caused by malfunctions would result in the source choosing to assert the affirmative defense. Thus, we expect the number of instances in which source operators might be expected to avail themselves of the affirmative defense will be extremely small. For this reason, we estimate no more than two such occurrences per year for all sources subject to subpart LLL over the 3-year period covered by this ICR. We expect to gather information on such events in the future and will revise this estimate as better information becomes available.

We estimate 86 facilities will be subject to all final standards. The remaining 14 facilities will only be subject to the open clinker pile standards in this action. The annual monitoring, reporting and recordkeeping cost for this source (averaged over the first three years after the effective date of the standards) for these amendments to subpart LLL is estimated to be $352,814 per year for the industry. This includes 496 labor hours per year at a total labor cost of $47,806 per year, and total non-labor capital and operation and maintenance costs of $305,008 per year. This estimate includes reporting and recordkeeping associated with the requirements for open clinker storage piles. The total burden to the federal government (averaged over the first three years after the effective date of the standard) as a result of these amendments is estimated to be 263 hours per year at a total labor cost of $11,885 per year. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impact of this rule on small entities, small entity is defined as: (1) A small business whose parent company has no more than 750 employees based on the size definition for the affected NAICS code (327310), as defined by the Small Business Administration size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

We estimate that 3 of the 26 existing Portland cement entities are small entities and comprise 3 plants. After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Of the three affected small entities, all are expected to incur an annual compliance cost of less than 1.0 percent of sales to comply with these amendments to the 2010 final rule (reflecting potential controls on piles, which are likely to have lower cost when compared to the 2010 rule requirements because these plants already have requirements for

control of open clinker storage piles in their title V permits).

Although this final rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless adopted amendments which should reduce the impact of this final rule on small entities. For example, we are expanding the provision that allows periodic HCl performance tests as an alternative to HCl CEMS for sources equipped with wet scrubbers to also apply to those sources that use dry scrubbers. This final rule also adds an option for sources using wet or dry scrubbers for HCl control to use SO_2 as a monitored parameter. If these sources already have a CEMS for SO_2, then this will provide operational flexibility.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. As discussed earlier in this preamble, there is an actual savings to the industry of $52 million per year. Thus, this final rule is not subject to the requirements of section 202 and 205 of the UMRA. This final action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This final action contains no requirements that apply to such governments, imposes no obligations upon them, and will not result in expenditures by them of $100 million or more in any one year or any disproportionate impacts on them.

E. Executive Order 13132: Federalism

This final action 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. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action may have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The EPA is aware of one tribally owned Portland cement facility currently subject to subpart LLL and that will be subject to this final rule. The provisions of this final rule are not expected to impose new substantial direct compliance costs on Tribal governments since the same control technologies that are necessary under the current NESHAP will be needed to meet the final emissions limits. The EPA has tried to reduce the impact of this final rule on Tribal owned facilities. For example, we are expanding the provision that allows periodic HCl performance tests as an alternative to HCl CEMS for sources equipped with wet scrubbers to also apply to those sources that use dry sorbent injection (i.e., dry scrubbing systems). This final rule adds an option for sources using wet or dry scrubbers for HCl control to use SO_2 as a monitored parameter. If these sources already have a CEMS for SO_2, then this will provide operational flexibility.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying 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 is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This final action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The amendments do not require the use of additional controls as compared to the 2010 rule and may allow the industry to reduce its cost of compliance by increasing the industry's flexibility to institute different and less costly control strategies than under the 2010 rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113 (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 impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This final rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

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 United States.

An analysis of demographic data was prepared for the 2010 final rule and can be found in the docket for that rulemaking (See docket item EPA–HQ–OAR–2002–0051–3415). The impacts of the 2010 rule, which assumed full compliance, are expected to be unchanged as a result of this action. Therefore, beginning from the date of full compliance, 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 it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income populations. In addition, the full benefits of this final rule will not result until 2015 due to the final amended compliance date but the demographic analysis showed that the average of populations in close proximity to the sources, and thus most likely to be affected by the sources, were similar in demographic composition to national averages.

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 United States. The EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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 final rule will be effective on February 12, 2013.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 20, 2012.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart F—[AMENDED]

■ 2. Section 60.61 is amended by adding paragraphs (e) and (f) to read as follows:

§ 60.61 Definitions.

* * * * *

(e) *Excess emissions* means, with respect to this subpart, results of any required measurements outside the applicable range (e.g., emissions limitations, parametric operating limits) that is permitted by this subpart. The values of measurements will be in the same units and averaging time as the values specified in this subpart for the limitations.

(f) *Operating day* means a 24-hour period beginning at 12:00 midnight during which the kiln operates at any time. For calculating rolling 30-day average emissions, an *operating day* does not include the hours of operation during startup or shutdown.

* * * * *

■ 3. Section 60.62 is amended by:

■ a. Removing and reserving paragraph (a)(1)(i), revising paragraph (a)(1)(ii) and adding paragraph (a)(1)(iii);

■ b. Removing and reserving paragraph (a)(2);

■ c. Revising paragraphs (b)(1)(i) and (ii);

■ d. Removing paragraph (b)(2);

■ e. Redesignating paragraphs (b)(3) and (4) as (b)(2) and (3);

■ f. Revising newly designated paragraph (b)(3); and

■ g. Revising paragraph (d).

The revisions read as follows:

§ 60.62 Standards.

(a) * * *

(1) * * *

(ii) 0.02 pound per ton of clinker if construction or reconstruction of the kiln commenced after June 16, 2008.

(iii) Kilns that have undergone a modification may not discharge into the atmosphere any gases which contain PM in excess of 0.07 pound per ton of clinker.

* * * * *

(b) * * *

(1) * * *

(i) 0.02 pound per ton of clinker if construction or reconstruction of the clinker cooler commences after June 16, 2008.

(ii) 0.07 pound per ton of clinker if the clinker cooler has undergone a modification.

* * * * *

(3) If the kiln has a separated alkali bypass stack and/or an inline coal mill with a separate stack, you must combine the PM emissions from the bypass stack and/or the inline coal mill stack with the PM emissions from the main kiln exhaust to determine total PM emissions.

* * * * *

(d) If you have an affected source subject to this subpart with a different emissions limit or requirement for the same pollutant under another regulation in title 40 of this chapter, you must comply with the most stringent emissions limit or requirement and are not subject to the less stringent requirement.

■ 4. Section 60.63 is amended by:

■ a. Revising paragraphs (b)(1)(i) and (ii);

■ b. Adding paragraph (b)(1)(iii);

■ c. Revising paragraphs (b)(2) and (3);

■ d. Removing paragraph (b)(4);

■ e. Revising paragraphs (c) through (f);

■ f. Revising paragraph (g) introductory text;

■ g. Revising paragraph (g)(2);

■ h. Revising paragraph (h) introductory text;

■ i. Revising paragraphs (h)(1) and (6);

■ j. Revising paragraph (h)(7) introductory text;

■ k. Revising paragraph (h)(8) introductory text;

■ l. Revising paragraph (h)(9);

■ m. Revising paragraph (i) introductory text; and

■ n. Revising paragraph (i)(1) introductory text and (i)(1)(i).

The revisions and addition read as follows:

§ 60.63 Monitoring of operations.

* * * * *

(b) * * *

(1) * * *

(i) Install, calibrate, maintain, and operate a permanent weigh scale system to measure and record weight rates of the amount of clinker produced in tons of mass per hour. The system of measuring hourly clinker production must be maintained within ±5 percent accuracy or

(ii) Install, calibrate, maintain, and operate a permanent weigh scale system to measure and record weight rates of the amount of feed to the kiln in tons of mass per hour. The system of measuring feed must be maintained within ±5 percent accuracy. Calculate your hourly clinker production rate using a kiln specific feed-to-clinker ratio based on reconciled clinker production rates determined for accounting purposes and recorded feed rates. This ratio should be updated monthly. Note that if this ratio changes at clinker reconciliation, you must use the new ratio going forward, but you do not have to retroactively change clinker production rates previously estimated.

(iii) For each kiln operating hour for which you do not have data on clinker production or the amount of feed to the kiln, use the value from the most recent previous hour for which valid data are available.

(2) Determine, record, and maintain a record of the accuracy of the system of measuring hourly clinker production rates or feed rates before initial use (for new sources) or by the effective compliance date of this rule (for existing sources). During each quarter of source operation, you must determine, record, and maintain a record of the ongoing accuracy of the system of measuring hourly clinker production rates or feed rates.

(3) If you measure clinker production directly, record the daily clinker production rates; if you measure the kiln feed rates and calculate clinker production, record the daily kiln feed and clinker production rates.

(c) *PM Emissions Monitoring Requirements.* (1) For each kiln or clinker cooler subject to a PM emissions limit in § 60.62, you must demonstrate compliance through an initial performance test. You will conduct your performance test using Method 5 or Method 5I at appendix A–3 to part 60 of this chapter. You must also monitor continuous performance through use of

a PM continuous parametric monitoring system (PM CPMS).

(2) For your PM CPMS, you will establish a site-specific operating limit. If your PM performance test demonstrates your PM emission levels to be below 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test, the milliamp equivalent of zero output from your PM CPMS, and the average PM result of your compliance test to establish your operating limit equivalent to 75 percent of the standard. If your PM compliance test demonstrates your PM emission levels to be at or above 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test demonstrating compliance with the PM limit to establish your operating limit. You will use the PM CPMS to demonstrate continuous compliance with your operating limit. You must repeat the performance test annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(i) Your PM CPMS must provide a 4–20 milliamp output and the establishment of its relationship to manual reference method measurements must be determined in units of milliamps.

(ii) Your PM CPMS operating range must be capable of reading PM concentrations from zero to a level equivalent to two times your allowable emission limit. If your PM CPMS is an auto-ranging instrument capable of multiple scales, the primary range of the instrument must be capable of reading PM concentration from zero to a level equivalent to two times your allowable emission limit.

(iii) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, record and average all milliamp output values from the PM CPMS for the periods corresponding to the compliance test runs (e.g., average all your PM CPMS output values for three corresponding 2-hour Method 5I test runs).

(3) Determine your operating limit as specified in paragraphs (c)(4)(i) through (c)(5) of this section. If your PM performance test demonstrates your PM emission levels to be below 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test, the milliamp equivalent of zero output from your PM CPMS, and the average PM result of your compliance test to establish your operating limit. If your PM compliance test demonstrates your PM emission levels to be at or above 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test to establish your operating limit. You must verify an existing or establish a new operating limit after each repeated performance test. You must repeat the performance test at least annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(4) If the average of your three Method 5 or 5I compliance test runs are below 75 percent of your PM emission limit, you must calculate an operating limit by establishing a relationship of PM CPMS signal to PM concentration using the PM CPMS instrument zero, the average PM CPMS values corresponding to the three compliance test runs, and the average PM concentration from the Method 5 or 5I compliance test with the procedures in (c)(4)(i)(A) through (D) of this section.

(i) Determine your PM CPMS instrument zero output with one of the following procedures.

(A) Zero point data for in-situ instruments should be obtained by removing the instrument from the stack and monitoring ambient air on a test bench.

(B) Zero point data for extractive instruments should be obtained by removing the extractive probe from the stack and drawing in clean ambient air.

(C) The zero point can also can be obtained by performing manual reference method measurements when the flue gas is free of PM emissions or contains very low PM concentrations (e.g., when your process is not operating, but the fans are operating or your source is combusting only natural gas) and plotting these with the compliance data to find the zero intercept.

(D) If none of the steps in paragraphs (c)(4)(i)(A) through (C) of this section are possible, you must use a zero output value provided by the manufacturer.

(ii) Determine your PM CPMS instrument average in milliamps, and the average of your corresponding three PM compliance test runs, using equation 1.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_1 \,, \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_1 \qquad \text{(Eq. 1)}$$

Where:

X1 = The PM CPMS data points for the three runs constituting the performance test,

Y1 = The PM concentration value for the three runs constituting the performance test, and

n = The number of data points.

(iii) With your PM CPMS instrument zero expressed in milliamps, your three run average PM CPMS milliamp value, and your three run average PM concentration from your three PM performance test runs, determine a relationship of lb/ton-clinker per milliamp with equation 2.

$$R = \frac{Y_1}{(X_1 - z)} \qquad \text{(Eq. 2)}$$

Where:

R = The relative lb/ton clinker per milliamp for your PM CPMS.

Y1 = The three run average PM lb/ton clinker.

X1 = The three run average milliamp output from you PM CPMS.

z = the milliamp equivalent of your instrument zero determined from (c)(4)(i) of this section.

(iv) Determine your source specific 30-day rolling average operating limit using the lb/ton-clinker per milliamp value from Equation 2 above in Equation 3, below. This sets your operating limit at the PM CPMS output value corresponding to 75 percent of your emission limit.

$$O_l = z + (0.75(L)) / R \qquad \text{(Eq. 3)}$$

Where:

O_l = The operating limit for your PM CPMS on a 30-day rolling average, in milliamps.

L = Your source emission limit expressed in lb/ton clinker.

z = Your instrument zero in milliamps, determined from (1)(i).

R = The relative lb/ton-clinker per milliamp for your PM CPMS, from Equation 2.

(5) If the average of your three PM compliance test runs is at or above 75 percent of your PM emission limit you must determine your operating limit by averaging the PM CPMS milliamp output corresponding to your three PM performance test runs that demonstrate compliance with the emission limit using Equation 4.

$$O_h = \frac{1}{n}\sum_{i=1}^{n} X_1 \qquad \text{(Eq. 4)}$$

Where:

X1 = The PM CPMS data points for all runs i.

n = The number of data points.

O_h = Your site specific operating limit, in milliamps.

(6) To determine continuous compliance, you must record the PM CPMS output data for all periods when the process is operating, and use all the PM CPMS data for calculations when the source is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the PM CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (milliamps) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 5 to determine the 30 kiln operating day average.

$$30\text{kiln operating day average} = \frac{\sum_{i=1}^{n} Hpv_i}{n} \qquad \text{(Eq. 5)}$$

Where:

Hpvi = The hourly parameter value for hour i.

n = The number of valid hourly parameter values collected over 30 kiln operating days.

(7) Use EPA Method 5 or Method 5I of appendix A to part 60 of this chapter to determine PM emissions. For each performance test, conduct at least three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. Conduct each test run to collect a minimum sample volume of 2 dscm for determining compliance with a new source limit and 1 dscm for determining compliance with an existing source limit. Calculate the average of the results from three consecutive runs to determine compliance. You need not determine the particulate matter collected in the impingers (''back half'') of the Method 5 or Method 5I particulate sampling train to demonstrate compliance with the PM standards of this subpart. This shall not preclude the permitting authority from requiring a determination of the ''back half'' for other purposes.

(8) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report must also include the make and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (e.g. beta attenuation), span of the instruments primary analytical range, milliamp value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp signals corresponding to each PM compliance test run.

(d) You must install, operate, calibrate, and maintain a CEMS continuously monitoring and recording the concentration by volume of NO_X emissions into the atmosphere for any kiln subject to the NO_X emissions limit in § 60.62(a)(3). If the kiln has an alkali bypass, NO_X emissions from the alkali bypass do not need to be monitored, and NO_X emission monitoring of the kiln exhaust may be done upstream of any commingled alkali bypass gases.

(e) You must install, operate, calibrate, and maintain a CEMS for continuously monitoring and recording the concentration by volume of SO_2 emissions into the atmosphere for any kiln subject to the SO_2 emissions limit in § 60.62(a)(4). If you are complying with the alternative 90 percent SO_2 emissions reduction emissions limit, you must also continuously monitor and record the concentration by volume of SO_2 present at the wet scrubber inlet.

(f) The NO_X and SO_2 CEMS required under paragraphs (d) and (e) of this section must be installed, operated and maintained according to Performance Specification 2 of appendix B of this part and the requirements in paragraphs (f)(1) through (5) of this section.

(1) The span value of each NO_X CEMS monitor must be set at 125 percent of the maximum estimated hourly potential NO_X emission concentration that translates to the applicable emissions limit at full clinker production capacity.

(2) You must conduct performance evaluations of each NO_X CEMS monitor according to the requirements in § 60.13(c) and Performance Specification 2 of appendix B to this part. You must use Methods 7, 7A, 7C, 7D, or 7E of appendix A–4 to this part for conducting the relative accuracy evaluations. The method ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' (incorporated by reference—see § 60.17) is an acceptable alternative to Method 7 or 7C of appendix A–4 to this part.

(3) The span value for the SO_2 CEMS monitor is the SO_2 emission concentration that corresponds to 125 percent of the applicable emissions limit at full clinker production capacity

and the expected maximum fuel sulfur content.

(4) You must conduct performance evaluations of each SO_2 CEMS monitor according to the requirements in § 60.13(c) and Performance Specification 2 of appendix B to this part. You must use Methods 6, 6A, or 6C of appendix A–4 to this part for conducting the relative accuracy evaluations. The method ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' (incorporated by reference—see § 60.17) is an acceptable alternative to Method 6 or 6A of appendix A–4 to this part.

(5) You must comply with the quality assurance requirements in Procedure 1 of appendix F to this part for each NO_X and SO_2 CEMS, including quarterly accuracy determinations for monitors, and daily calibration drift tests.

(g) For each CPMS or CEMS required under paragraphs (c) through (e) of this section:

* * * * *

(2) You may not use data recorded during the monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. An owner or operator must use all the data collected during all other periods in reporting emissions or operating levels.

* * * * *

(h) You must install, operate, calibrate, and maintain instruments for continuously measuring and recording the stack gas flow rate to allow determination of the pollutant mass emissions rate to the atmosphere for each kiln subject to the PM emissions limits in § 60.62(a)(1)(ii) and (iii) and (b)(1)(i) and (ii), the NO_X emissions limit in § 60.62(a)(3), or the SO_2 emissions limit in § 60.62(a)(4) according to the requirements in paragraphs (h)(1) through (10), where appropriate, of this section.

(1) The owner or operator must install each sensor of the flow rate monitoring system in a location that provides representative measurement of the exhaust gas flow rate at the sampling location of the NO_X and/or SO_2 CEMS, taking into account the manufacturer's recommendations. The flow rate sensor is that portion of the system that senses the volumetric flow rate and generates an output proportional to that flow rate.

* * * * *

(6) The flow rate monitoring system must be designed to measure a minimum of one cycle of operational flow for each successive 15-minute period.

(7) The flow rate sensor must be able to determine the daily zero and upscale calibration drift (CD) (see sections 3.1 and 8.3 of Performance Specification 2 in appendix B to this part for a discussion of CD).

* * * * *

(8) You must perform an initial relative accuracy test of the flow rate monitoring system according to section 8.2 of Performance Specification 6 of appendix B to this part, with the exceptions noted in paragraphs (h)(8)(i) and (ii) of this section.

* * * * *

(9) You must verify the accuracy of the flow rate monitoring system at least once per year by repeating the relative accuracy test specified in paragraph (h)(8) of this section.

* * * * *

(i) *Development and Submittal (Upon Request) of Monitoring Plans.* To demonstrate compliance with any applicable emissions limit through performance stack testing or other emissions monitoring (including PM CPMS), you must develop a site-specific monitoring plan according to the requirements in paragraphs (i)(1) through (4) of this section. This requirement also applies to you if you petition the EPA Administrator for alternative monitoring parameters under § 60.13(3)(i). If you use a bag leak detector system (BLDS), you must also meet the requirements specified in paragraph § 63.1350(m)(10) of this chapter.

(1) For each continuous monitoring system (CMS) required in this section, you must develop, and submit to the permitting authority for approval upon request, a site-specific monitoring plan that addresses paragraphs (i)(1)(i) through (iii) of this section. You must submit this site-specific monitoring plan, if requested, at least 30 days before the initial performance evaluation of your CMS.

(i) Installation of the CMS sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (e.g., on or downstream of the last control device);

* * * * *

■ 5. Section 60.64 is revised to read as follows:

§ 60.64 Test methods and procedures.

(a) In conducting the performance tests and relative accuracy tests required in § 60.8, you must use reference methods and procedures and the test methods in appendix A of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(b)(1)You must demonstrate compliance with the PM standards in § 60.62 using EPA method 5 or method 5I.

(2) Use Method 9 and the procedures in § 60.11 to determine opacity.

(3) Any sources other than kilns (including associated alkali bypass and clinker cooler) that are subject to the 10 percent opacity limit must follow the appropriate monitoring procedures in § 63.1350(f), (m)(1)through (4), (10) and (11), (o), and (p) of this chapter.

(c) Calculate and record the rolling 30 kiln operating day average emission rate daily of NO_X and SO_2 according to the procedures in paragraphs (c)(1) and (2) of this section.

(1) Calculate the rolling 30 kiln operating day average emissions according to equation 6:

$$E_{30D} = k \frac{\sum_{i=1}^{n} C_i Q_i}{P} \qquad \text{(Eq. 6)}$$

Where:

E_{30D} = 30 kiln operating day average emission rate of NO_X or SO_2, lb/ton of clinker.

C_i = Concentration of NO_X or SO_2 for hour i, ppm.

Q_i = Volumetric flow rate of effluent gas for hour i, where

C_i and Q_i are on the same basis (either wet or dry), scf/hr.

P = 30 days of clinker production during the same time period as the NO_X or SO_2 emissions measured, tons.

k = Conversion factor, 1.194×10^{7} for NO_X and 1.660×10^{7} for SO_2, lb/scf/ppm.

n = Number of kiln operating hours over 30 kiln operating days.

(2) For each kiln operating hour for which you do not have at least one valid 15-minute CEMS data value, use the average emissions rate (lb/hr) from the most recent previous hour for which valid data are available.

(d)(1) Within 60 days after the date of completing each performance test (see § 60.8) as required by this subpart you must submit the results of the performance tests conducted to demonstrate compliance under this subpart to the EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through the EPA's Central Data Exchange (CDX) (*http://www.epa.gov/cdx*). Performance test data must be submitted in the file format generated through use of the EPA's Electronic Reporting Tool (ERT) (see *http://www.epa.gov/ttn/chief/ert/index.html*). Only data collected using test methods on the ERT Web site are subject to this requirement for submitting reports electronically to WebFIRE. Owners or operators who claim that some of the information being submitted for performance tests is confidential business information (CBI) must submit a complete ERT file including information claimed to be CBI on a compact disk, flash drive or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph. At the discretion of the delegated authority, you must also submit these reports, including the CBI, to the delegated authority in the format specified by the delegated authority. For any performance test conducted using test methods that are not listed on the ERT Web site, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13.

(2) Within 60 days after the date of completing each CEMS performance evaluation test as defined in § 63.2, you must submit relative accuracy test audit (RATA) data to the EPA's CDX by using CEDRI in accordance with paragraph (d)(1) of this section. Only RATA pollutants that can be documented with the ERT (as listed on the ERT Web site) are subject to this requirement. For any performance evaluations with no corresponding RATA pollutants listed on the ERT Web site, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13.

(3) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report must also include the make and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (e.g. beta attenuation), span of the instruments primary analytical range, milliamp value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp signals corresponding to each PM compliance test run.

(4) All reports required by this subpart not subject to the requirements in paragraphs (d)(1) and (2) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. The Administrator or the delegated authority may request a report in any form suitable for the specific case (e.g., by commonly used electronic media such as Excel spreadsheet, on CD or hard copy). The Administrator retains the right to require submittal of reports subject to paragraph (d)(1) and (2) of this section in paper format.

■ 6. Section 60.65 is revised to read as follows:

§ 60.65 Recordkeeping and reporting requirements.

(a) Each owner or operator required to install a CPMS or CEMS under sections § 60.63(c) through (e) shall submit reports of excess emissions. The content of these reports must comply with the requirements in § 60.7(c). Notwithstanding the provisions of § 60.7(c), such reports shall be submitted semiannually.

(b) Each owner or operator of facilities subject to the provisions of § 60.63(c) through (e) shall submit semiannual reports of the malfunction information required to be recorded by § 60.7(b). These reports shall include the frequency, duration, and cause of any incident resulting in deenergization of any device controlling kiln emissions or in the venting of emissions directly to the atmosphere.

(c) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Clean Air Act, 42 U.S.C. 7411, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State.

■ 7. Section 60.66 is amended by revising paragraph (b) introductory text to read as follows:

§ 60.66 Delegation of authority.

* * * * *

(b) In delegating implementation and enforcement authority to a State, local, or tribal agency, the approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S EPA and are not transferred to the State, local, or tribal agency.

* * * * *

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 8. The authority citation for part 63 continues to read as follows:

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

Subpart LLL—[Amended]

■ 9. Section 63.1340 is amended by revising paragraphs (b)(1), (b)(6) through (9), and (c) to read as follows:

§ 63.1340 What parts of my plant does this subpart cover?

* * * * *

(b) * * *:

(1) Each kiln including alkali bypasses and inline coal mills, except for kilns that burn hazardous waste and are subject to and regulated under subpart EEE of this part;

* * * * *

(6) Each raw material, clinker, or finished product storage bin at any portland cement plant that is a major source;

(7) Each conveying system transfer point including those associated with coal preparation used to convey coal from the mill to the kiln at any portland cement plant that is a major source;

(8) Each bagging and bulk loading and unloading system at any portland cement plant that is a major source; and

(9) Each open clinker storage pile at any portland cement plant.

(c) Onsite sources that are subject to standards for nonmetallic mineral processing plants in subpart OOO, part 60 of this chapter are not subject to this subpart. Crushers are not covered by this subpart regardless of their location.

* * * * *

■ 10. Section 63.1341 is amended by:

■ a. Removing definitions of ''Enclosed storage pile,'' and ''Inactive clinker pile'';

■ b. Adding a definition for ''In-line coal mill,'' ''Open clinker storage pile,'' ''Startup,'' and ''Shutdown'' in alphabetical order; and

■ c. Revising definitions for ''Kiln,'' ''New source,'' ''Operating day,'' ''Raw material dryer,'' and ''Total organic HAP,''.

The additions and revisions read as follows:

§ 63.1341 Definitions.

* * * * *

In-line coal mill means those coal mills using kiln exhaust gases in their process. Coal mills with a heat source other than the kiln or coal mills using exhaust gases from the clinker cooler are not an in-line coal mill.

* * * * *

Kiln means a device, including any associated preheater or precalciner devices, inline raw mills, inline coal mills or alkali bypasses that produces clinker by heating limestone and other materials for subsequent production of portland cement. Because the inline raw mill and inline coal mill are considered an integral part of the kiln, for purposes of determining the appropriate emissions limit, the term kiln also applies to the exhaust of the inline raw mill and the inline coal mill.

* * * * *

New source means any source that commenced construction or reconstruction after May 6, 2009, for purposes of determining the applicability of the kiln, clinker cooler and raw material dryer emissions limits for mercury, PM, THC, and HCl.

* * * * *

Open clinker storage pile means a clinker storage pile on the ground for more than three days that is not completely enclosed in a building or structure.

Operating day means any 24-hour period beginning at 12:00 midnight during which the kiln operates for any time. For calculating the rolling 30-day average emissions, kiln operating days do not include the hours of operation during startup or shutdown.

* * * * *

Raw material dryer means an impact dryer, drum dryer, paddle-equipped rapid dryer, air separator, or other equipment used to reduce the moisture content of feed or other materials.

* * * * *

Shutdown means the cessation of kiln operation. Shutdown begins when feed to the kiln is halted and ends when continuous kiln rotation ceases.

* * * * *

Startup means the time from when a shutdown kiln first begins firing fuel until it begins producing clinker. Startup begins when a shutdown kiln turns on the induced draft fan and begins firing fuel in the main burner. Startup ends when feed is being continuously introduced into the kiln for at least 120 minutes or when the feed rate exceeds 60 percent of the kiln design limitation rate, whichever occurs first.

* * * * *

Total organic HAP means, for the purposes of this subpart, the sum of the concentrations of compounds of formaldehyde, benzene, toluene, styrene, m-xylene, p-xylene, o-xylene, acetaldehyde, and naphthalene as measured by EPA Test Method 320 or Method 18 of appendix A to this part or ASTM D6348–03 [1] or a combination of these methods, as appropriate. If measurement results for any pollutant are reported as below the method detection level (e.g., laboratory analytical results for one or more sample components are below the method defined analytical detection level), you must use the method detection level as the measured emissions level for that pollutant in calculating the total organic HAP value. The measured result for a multiple component analysis (e.g., analytical values for multiple Method 18 fractions) may include a combination of method detection level data and analytical data reported above the method detection level. The owner or operator of an affected source may request the use of other test methods to make this determination under paragraphs 63.7(e)(2)(ii) and (f) of this part.

* * * * *

■ 11. Section 63.1343 is revised to read as follows:

§ 63.1343 What standards apply to my kilns, clinker coolers, raw material dryers, and open clinker storage piles?

(a) *General.* The provisions in this section apply to each kiln and any alkali bypass associated with that kiln, clinker cooler, raw material dryer, and open clinker storage pile. All D/F, HCl, and total hydrocarbon (THC) emissions limit are on a dry basis. The D/F, HCl, and THC limits for kilns are corrected to 7 percent oxygen. All THC emissions limits are measured as propane. Standards for mercury and THC are based on a rolling 30-day average. If using a CEMS to determine compliance with the HCl standard, this standard is based on a rolling 30-day average. You must ensure appropriate corrections for moisture are made when measuring flow rates used to calculate mercury emissions. The 30-day period means 30 consecutive kiln operating days excluding periods of startup and shutdown. All emissions limits for kilns, clinker coolers, and raw material dryers currently in effect that are superseded by the limits below continue to apply until the compliance date of the limits below, or until the source certifies compliance with the limits below, whichever is earlier.

(b) *Kilns, clinker coolers, raw material dryers, raw mills, and finish mills.* (1) The emissions limits for these sources are shown in Table 1 below. PM limits for existing kilns also apply to kilns that have undergone a modification as defined in subpart A of part 60 of title 40.

[1] When using ASTM D6348–03, the following conditions must be met:

(1) The test plan preparation and implementation in the Annexes to ASTM D6348–03, Sections A1 through A8 are mandatory; (2) For ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent R must be determined for each target analyte (see Equation A5.5); (3) For the ASTM D6348–03 test data to be acceptable for a target analyte percent R must be 70 percent $\geq R \leq 130$ percent; and (4) The percent R value for each compound must be reported in the test report and all field measurements corrected with the calculated percent R value for that compound using the following equation: Reported Result = The measured concentration in the stack divided by the calculated percent R value and then the whole term multiplied by 100.

TABLE 1—EMISSIONS LIMITS FOR KILNS, CLINKER COOLERS, RAW MATERIAL DRYERS, RAW AND FINISH MILLS

	If your source is a (an):	And the operating mode is:	And if is located at a:	Your emissions limits are:	And the units of the emissions limit are:	The oxygen correction factor is:
1.	Existing kiln	Normal operation	Major or area source	PM [1] 0.07	lb/ton clinker	NA.
				D/F [2] 0.2	ng/dscm (TEQ)	7 percent.
				Mercury 55	lb/MM tons clinker	NA.
				THC [3 4] 24	ppmvd	7 percent.
2.	Existing kiln	Normal operation	Major source	HCl 3	ppmvd	7 percent.
3.	Existing kiln	Startup and shutdown.	Major or area source	Work practices (63.1346(f))	NA	NA.
4.	New kiln	Normal operation	Major or area source	PM 0.02	lb/ton clinker	NA.
				D/F [2] 0.2	ng/dscm (TEQ)	7 percent.
				Mercury 21	lb/MM tons clinker	NA
				THC [3 4] 24	ppmvd	7 percent.
5.	New kiln	Normal operation	Major source	HCl 3	ppmvd	7 percent.
6.	New kiln	Startup and shutdown.	Major or area source	Work practices (63.1346(f))	NA	NA.
7.	Existing clinker cooler.	Normal operation	Major or area source	PM 0.07	lb/ton clinker	NA.
8.	Existing clinker cooler.	Startup and shutdown.	Major or area source	Work practices (63.1348(b)(9))	NA	NA.
9.	New clinker cooler	Normal operation	Major or area source	PM 0.02	lb/ton clinker	NA.
10.	New clinker cooler	Startup and shutdown.	Major or area source	Work practices (63.1348(b)(9))	NA	NA.
11.	Existing or new raw material dryer.	Normal operation	Major or area source	THC [3 4] 24	ppmvd	NA.
12.	Existing or new raw material dryer.	Startup and shutdown.	Major or area source	Work practices (63.1348(b)(9))	NA	NA.
13.	Existing or new raw or finish mill.	All operating modes	Major source	Opacity 10	percent	NA.

[1] The initial and subsequent PM performance tests are performed using Method 5 or 5I and consist of three 1-hr tests.
[2] If the average temperature at the inlet to the first PM control device (fabric filter or electrostatic precipitator) during the D/F performance test is 400 °F or less this limit is changed to 0.40 ng/dscm (TEQ).
[3] Measured as propane.
[4] Any source subject to the 24 ppmvd THC limit may elect to meet an alternative limit of 12 ppmvd for total organic HAP.

(2) When there is an alkali bypass and/or an inline coal mill with a separate stack associated with a kiln, the combined PM emissions from the kiln and the alkali bypass stack and/or the inline coal mill stack are subject to the PM emissions limit. Existing kilns that combine the clinker cooler exhaust and/or coal mill exhaust with the kiln exhaust and send the combined exhaust to the PM control device as a single stream may meet an alternative PM emissions limit. This limit is calculated using Equation 1 of this section:

$$PM_{alt} = (0.0060 \times 1.65)(Q_k + Q_c + Q_{ab} + Q_{cm})/(7000) \quad \text{(Eq. 1)}$$

Where:

PM_{alt} = Alternative PM emission limit for commingled sources.

0.006 = The PM exhaust concentration (gr/dscf) equivalent to 0.070 lb per ton clinker where clinker cooler and kiln exhaust gas are not combined.

1.65 = The conversion factor of ton feed per ton clinker.

Q_k = The exhaust flow of the kiln (dscf/ton feed).

Q_c = The exhaust flow of the clinker cooler (dscf/ton feed).

Q_{ab} = The exhaust flow of the alkali bypass (dscf/ton feed).

Q_{cm} = The exhaust flow of the coal mill (dscf/ton feed).

7000 = The conversion factor for grains (gr) per lb.

For new kilns that combine kiln exhaust and clinker cooler gas the limit is calculated using the Equation 2 of this section:

$$PM_{alt} = (0.0020 \times 1.65)(Q_k + Q_c + Q_{ab} + Q_{cm})/(7000) \quad \text{(Eq. 2)}$$

Where:

PM_{alt} = Alternative PM emission limit for commingled sources.

0.002 = The PM exhaust concentration (gr/dscf) equivalent to 0.020 lb per ton clinker where clinker cooler and kiln exhaust gas are not combined.

1.65 = The conversion factor of ton feed per ton clinker.

Q_k = The exhaust flow of the kiln (dscf/ton feed).

Q_c = The exhaust flow of the clinker cooler (dscf/ton feed).

Q_{ab} = The exhaust flow of the alkali bypass (dscf/ton feed).

Q_{cm} = The exhaust flow of the coal mill (dscf/ton feed).

7000 = The conversion factor for gr per lb.

(c) *Open clinker storage pile.* The owner or operator of an open clinker storage pile must prepare, and operate in accordance with, the fugitive dust emissions control measures, described in their operation and maintenance plan (see § 63.1347 of this subpart), that is appropriate for the site conditions as specified in paragraphs (c)(1) through

(3) of this section. The operation and maintenance plan must also describe the measures that will be used to minimize fugitive dust emissions from piles of clinker, such as accidental spillage, that are not part of open clinker storage piles.

(1) The operation and maintenance plan must identify and describe the location of each current or future open clinker storage pile and the fugitive dust emissions control measures the owner or operator will use to minimize fugitive dust emissions from each open clinker storage pile.

(2) For open clinker storage piles, the operations and maintenance plan must specify that one or more of the following control measures will be used to minimize to the greatest extent practicable fugitive dust from open clinker storage piles: Locating the source inside a partial enclosure, installing and operating a water spray or fogging system, applying appropriate chemical dust suppression agents, use of a wind barrier, compaction, use of tarpaulin or other equally effective cover or use of a vegetative cover. You must select, for inclusion in the operations and maintenance plan, the fugitive dust control measure or measures listed in this paragraph that are most appropriate for site conditions. The plan must also explain how the measure or measures selected are applicable and appropriate for site conditions. In addition, the plan must be revised as needed to reflect any changing conditions at the source.

(3) Temporary piles of clinker that result from accidental spillage or clinker storage cleaning operations must be cleaned up within 3 days.

(d) Emission limits in effect prior to September 9, 2010. Any source defined as an existing source in § 63.1351, and that was subject to a PM, mercury, THC, D/F, or opacity emissions limit prior to September 9, 2010, must continue to meet the limits shown in Table 2 to this section until September 9, 2015.

■ 12. Section 63.1344 is revised to read as follows:

§ 63.1344 Affirmative Defense for Violation of Emission Standards During Malfunction.

In response to an action to enforce the standards set forth in § 63.1343(b) and (c) and § 63.1345 and you may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at 40 CFR 63.2. Appropriate penalties may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(a) *Assertion of affirmative defense.* To establish the affirmative defense in any action to enforce such a standard, you must timely meet the reporting requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that:

(1) The violation:

(i) Was caused by a sudden, infrequent, and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner; and

(ii) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(iii) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(iv) Was not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(2) Repairs were made as expeditiously as possible when a violation occurred; and

(3) The frequency, amount, and duration of the violation (including any bypass) were minimized to the maximum extent practicable; and

(4) If the violation resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(5) All possible steps were taken to minimize the impact of the violation on ambient air quality, the environment, and human health; and

(6) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety and good air pollution control practices; and

(7) All of the actions in response to the violation were documented by properly signed, contemporaneous operating logs; and

(8) At all times, the affected source was operated in a manner consistent with good practices for minimizing emissions; and

(9) A written root cause analysis has been prepared, the purpose of which is to determine, correct, and eliminate the primary causes of the malfunction and the violation resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of any emissions that were the result of the malfunction.

(b) *Report.* The owner or operator seeking to assert an affirmative defense shall submit a written report to the Administrator with all necessary supporting documentation, that it has met the requirements set forth in paragraph (a) of this section. This affirmative defense report shall be included in the first periodic compliance, deviation report or excess emission report otherwise required after the initial occurrence of the violation of the relevant standard (which may be the end of any applicable averaging period). If such compliance, deviation report or excess emission report is due less than 45 days after the initial occurrence of the violation, the affirmative defense report may be included in the second compliance, deviation report or excess emission report due after the initial occurrence of the violation of the relevant standard.

■ 13. Section 63.1345 is revised to read as follows:

§ 63.1345 Emissions limits for affected sources other than kilns; clinker coolers; new and reconstructed raw material dryers.

The owner or operator of each new or existing raw material, clinker, or finished product storage bin; conveying system transfer point; bagging system; bulk loading or unloading system; raw and finish mills; and each existing raw material dryer, at a facility which is a major source subject to the provisions of this subpart must not cause to be discharged any gases from these affected sources which exhibit opacity in excess of 10 percent.

■ 14. Section 63.1346 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (a)(1);

■ c. Revising paragraphs (c) through (f); and

■ d. Adding paragraph (g)

The revisions read as follows:

§ 63.1346 Operating limits for kilns.

(a) The owner or operator of a kiln subject to a D/F emissions limitation under § 63.1343 must operate the kiln such that the temperature of the gas at the inlet to the kiln PM control device (PMCD) and alkali bypass PMCD, if applicable, does not exceed the applicable temperature limit specified in paragraph (b) of this section. The owner or operator of an in-line kiln/raw mill subject to a D/F emissions limitation under § 63.1343 must operate the in-line kiln/raw mill, such that:

(1) When the raw mill of the in-line kiln/raw mill is operating, the applicable temperature limit for the main in-line kiln/raw mill exhaust, specified in paragraph (b) of this section and established during the performance test when the raw mill was operating, is not exceeded, except during periods of startup and shutdown when the

temperature limit may be exceeded by no more than 10 percent.

* * * * *

(c) For an affected source subject to a D/F emissions limitation under § 63.1343 that employs sorbent injection as an emission control technique for D/F control, you must operate the sorbent injection system in accordance with paragraphs (c)(1) and (2) of this section.

(1) The rolling three-hour average activated sorbent injection rate must be equal to or greater than the sorbent injection rate determined in accordance with § 63.1349(b)(3)(vi).

(2) You must either:

(i) Maintain the minimum activated carbon injection carrier gas flow rate, as a rolling three-hour average, based on the manufacturer's specifications. These specifications must be documented in the test plan developed in accordance with § 63.7(c), or

(ii) Maintain the minimum activated carbon injection carrier gas pressure drop, as a rolling three-hour average, based on the manufacturer's specifications. These specifications must be documented in the test plan developed in accordance with § 63.7(c).

(d) Except as provided in paragraph (e) of this section, for an affected source subject to a D/F emissions limitation under § 63.1343 that employs carbon injection as an emission control technique you must specify and use the brand and type of sorbent used during the performance test until a subsequent performance test is conducted, unless the site-specific performance test plan contains documentation of key parameters that affect adsorption and the owner or operator establishes limits based on those parameters, and the limits on these parameters are maintained.

(e) For an affected source subject to a D/F emissions limitation under § 63.1343 that employs carbon injection as an emission control technique you may substitute, at any time, a different brand or type of sorbent provided that the replacement has equivalent or improved properties compared to the sorbent specified in the site-specific performance test plan and used in the performance test. The owner or operator must maintain documentation that the substitute sorbent will provide the same or better level of control as the original sorbent.

(f) No kiln may use as a raw material or fuel any fly ash where the mercury content of the fly ash has been increased through the use of activated carbon, or any other sorbent, unless the facility can demonstrate that the use of that fly ash will not result in an increase in mercury emissions over baseline emissions (i.e., emissions not using the fly ash). The facility has the burden of proving there has been no emissions increase over baseline. Once the kiln is in compliance with a mercury emissions limit specified in § 63.1343, this paragraph no longer applies.

(g) During periods of startup and shutdown you must meet the requirements listed in (g)(1) through (4) of this section.

(1) During startup you must use any one or combination of the following clean fuels: natural gas, synthetic natural gas, propane, distillate oil, synthesis gas (syngas), and ultra-low sulfur diesel (ULSD) until the kiln reaches a temperature of 1200 degrees Fahrenheit.

(2) Combustion of the primary kiln fuel may commence once the kiln temperature reaches 1200 degrees Fahrenheit.

(3) All air pollution control devices must be turned on and operating prior to combusting any fuel.

(4) You must keep records as specified in § 63.1355 during periods of startup and shutdown.

■ 15. Section 63.1347 is amended by revising paragraph (a)(1) to read as follows:

§ 63.1347 Operation and maintenance plan requirements.

(a) * * *

(1) Procedures for proper operation and maintenance of the affected source and air pollution control devices in order to meet the emissions limits and operating limits, including fugitive dust control measures for open clinker piles, of §§ 63.1343 through 63.1348. Your operations and maintenance plan must address periods of startup and shutdown;

* * * * *

■ 16. Section 63.1348 is amended by:

■ a. Revising paragraphs (a) introductory text and (a)(1) and (2);

■ b. Adding two sentences to paragraph (a)(3)(i);

■ c. Revising paragraph (a)(3)(ii);

■ d. Revising paragraphs (a)(3)(iii) and (iv);

■ e. Revising paragraphs (a)(4) through (8);

■ f. Revising paragraph (b); and

■ g. Revising paragraph (c)(2)(iv).

The revisions and additions read as follows:

§ 63.1348 Compliance requirements.

(a) *Initial Performance Test Requirements.* For an affected source subject to this subpart, you must demonstrate compliance with the emissions standards and operating limits by using the test methods and procedures in §§ 63.1349 and 63.7. Any cement kiln that has been subject to the requirements of subpart CCCC or subpart DDDD of 40 CFR Part 60, and is now electing to cease burning nonhazardous solid waste and become subject to this subpart, must meet all the initial compliance testing requirements each time it becomes subject to this subpart, even if it was previously subject to this subpart.

NOTE to paragraph (a): The first day of the 30 operating day performance test is the first day after the compliance date following completion of the field testing and data collection that demonstrates that the CPMS or CEMS has satisfied the relevant CPMS performance evaluation or CEMS performance specification (e.g., PS 2, 12A, or 12B) acceptance criteria. The performance test period is complete at the end of the 30th consecutive operating day. See § 63.1341 for definition of operating day and § 63.1348(b)(1) for the CEMS operating requirements. The source has the option of performing the compliance test earlier then the compliance date if desired.

(1) *PM Compliance.* If you are subject to limitations on PM emissions under § 63.1343(b), you must demonstrate compliance with the PM emissions standards by using the test methods and procedures in § 63.1349(b)(1).

(2) *Opacity Compliance.* If you are subject to the limitations on opacity under § 63.1345, you must demonstrate compliance with the opacity emissions standards by using the performance test methods and procedures in § 63.1349(b)(2). Use the maximum 6-minute average opacity exhibited during the performance test period to determine whether the affected source is in compliance with the standard.

(3) * * *

(i) * * * The owner or operator of a kiln with an in-line raw mill must demonstrate compliance by conducting separate performance tests while the raw mill is operating and while the raw mill is not operating. Determine the D/F TEQ concentration for each run and calculate the arithmetic average of the TEQ concentrations measured for the three runs to determine continuous compliance.

(ii) If you are subject to a D/F emissions limitation under § 63.1343(b), you must demonstrate compliance with the temperature operating limits specified in § 63.1346 by using the performance test methods and procedures in § 63.1349(b)(3)(ii) through (b)(3)(iv). Use the arithmetic average of the temperatures measured during the

three runs to determine the applicable temperature limit.

(iii) If activated carbon injection is used and you are subject to a D/F emissions limitation under § 63.1343(b), you must demonstrate compliance with the activated carbon injection rate operating limits specified in § 63.1346 by using the performance test methods and procedures in § 63.1349(b)(3)(v).

(iv) If activated carbon injection is used, you must also develop a carrier gas parameter (either the carrier gas flow rate or the carrier gas pressure drop) during the initial performance test and updated during any subsequent performance test conducted under § 63.1349(b)(3) that meets the requirements of § 63.1349(b)(3)(vi). Compliance is demonstrated if the system is maintained within +/- 5 percent accuracy during the performance test determined in accordance with the procedures and criteria submitted for review in your monitoring plan required in section 63.1350(p).

(4)(i) *THC Compliance.* If you are subject to limitations on THC emissions under § 63.1343(b), you must demonstrate compliance with the THC emissions standards by using the performance test methods and procedures in § 63.1349(b)(4)(i). You must use the average THC concentration obtained during the first 30 kiln operating days after the compliance date of this rule to determine initial compliance.

(ii) *Total Organic HAP Emissions Tests.* If you elect to demonstrate compliance with the total organic HAP emissions limit under § 63.1343(b) in lieu of the THC emissions limit, you must demonstrate compliance with the total organic HAP emissions standards by using the performance test methods and procedures in § 63.1349(b)(7.

(iii) If you are demonstrating initial compliance, you must conduct the separate performance tests as specified in § 63.1349(b)(7) while the raw mill of the inline kiln/raw mill is operating and while the raw mill of the inline kiln/raw mill is not operating.

(iv) The average total organic HAP concentration measured during the separate initial performance test specified by § 63.1349(b)(7) must be used to determine initial compliance.

(v) The average THC concentration measured during the initial performance test specified by § 63.1349(b)(4) must be used to determine the site-specific THC limit. Using the fraction of time the inline kiln/raw mill is on and the fraction of time that the inline kiln/raw mill is off, calculate this limit as a weighted average of the THC levels measured during raw mill on and raw mill off testing using one of the two approaches in § 63.1349(b)(7)(vii) or (viii) depending on the level of organic HAP measured during the compliance test.

(5) *Mercury Compliance.* If you are subject to limitations on mercury emissions in § 63.1343(b), you must demonstrate compliance with the mercury standards by using the performance test methods and procedures in § 63.1349(b)(5). You must demonstrate compliance by operating a mercury CEMS or a sorbent trap based CEMS. Compliance with the mercury emissions standard must be determined based on the first 30 operating days you operate a mercury CEMS or sorbent trap monitoring system after the compliance date of this rule.

(i) In calculating a 30 operating day emissions value using an integrating sorbent trap CEMS, assign the average Hg emissions concentration determined for an integrating period (e.g., 7 day sorbent trap monitoring system sample) to each relevant hour of the kiln operating days spanned by each integrated sample. Calculate the 30 kiln operating day emissions rate value using the assigned hourly Hg emissions concentrations and the respective flow and production rate values collected during the 30 kiln operating day performance test period. Depending on the duration of each integrated sampling period, you may not be able to calculate the 30 kiln operating day emissions value until several days after the end of the 30 kiln operating day performance test period.

(ii) For example, a sorbent trap monitoring system producing an integrated 7-day sample will provide Hg concentration data for each hour of the first 28 kiln operating days (i.e., four values spanning 7 days each) of a 30 operating day period. The Hg concentration values for the hours of the last 2 days of the 30 operating day period will not be available for calculating the emissions for the performance test period until at least five days after the end of the subject period.

(6) *HCl Compliance.* If you are subject to limitations on HCl emissions under § 63.1343(b), you must demonstrate initial compliance with the HCl standards by using the performance test methods and procedures in § 63.1349(b)(6).

(i) For an affected source that is equipped with a wet scrubber, tray tower or dry scrubber, you may demonstrate initial compliance by conducting a performance test as specified in § 63.1349(b)(6)(i). You must determine the HCl concentration for each run and calculate the arithmetic average of the concentrations measured for the three runs to determine compliance. You must also establish appropriate site-specific operational parameter limits.

(ii) For an affected source that is not equipped with a wet scrubber, tray tower or dry scrubber, you must demonstrate initial compliance by operating a CEMS as specified in § 63.1349(b)(6)(ii). You must use the average of the hourly HCl values obtained during the first 30 kiln operating days that occur after the compliance date of this rule to determine initial compliance.

(7) *Commingled Exhaust Requirements.* If the coal mill exhaust is commingled with kiln exhaust in a single stack, you may demonstrate compliance with the kiln emission limits by either:

(i) Performing required emissions monitoring and testing on the commingled coal mill and kiln exhaust, or

(ii) Perform required emission monitoring and testing of the kiln exhaust prior to the reintroduction of the coal mill exhaust, and also testing the kiln exhaust diverted to the coal mill. All emissions must be added together for all emission points, and must not exceed the limit per each pollutant as listed in S63.1343(b).

(b) *Continuous Monitoring Requirements.* You must demonstrate compliance with the emissions standards and operating limits by using the performance test methods and procedures in §§ 63.1350 and 63.8 for each affected source.

(1) *General Requirements.* (i) You must monitor and collect data according to § 63.1350 and the site-specific monitoring plan required by § 63.1350(p).

(ii) Except for periods of startup and shutdown, monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments), you must operate the monitoring system and collect data at all required intervals at all times the affected source is operating.

(iii) You may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. A monitoring system malfunction is any

sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(iv) *Clinker Production.* If you are subject to limitations on mercury emissions (lb/MM tons of clinker) under § 63.1343(b), you must determine the hourly production rate of clinker according to the requirements of § 63.1350(d).

(2) *PM Compliance.* If you are subject to limitations on PM emissions under § 63.1343(b), you must use the monitoring methods and procedures in § 63.1350(b) and (d).

(3) *Opacity Compliance.* If you are subject to the limitations on opacity under § 63.1345, you must demonstrate compliance using the monitoring methods and procedures in § 63.1350(f) based on the maximum 6-minute average opacity exhibited during the performance test period. You must initiate corrective actions within one hour of detecting visible emissions above the applicable limit.

(i) *COMS.* If you install a COMS in lieu of conducting the daily visible emissions testing, you must demonstrate compliance using a COMS such that it is installed, operated, and maintained in accordance with the requirements of § 63.1350(f)(4)(i).

(ii) Bag leak determination system (*BLDS).* If you install a BLDS on a raw mill or finish mill in lieu of conducting the daily visible emissions testing, you must demonstrate compliance using a BLDS that is installed, operated, and maintained in accordance with the requirements of § 63.1350(f)(4)(ii).

(4) *D/F Compliance.* If you are subject to a D/F emissions limitation under § 63.1343(b), you must demonstrate compliance using a CMS that is installed, operated and maintained to record the temperature of specified gas streams in accordance with the requirements of § 63.1350(g).

(5)(i) *Activated Carbon Injection Compliance.* If you use activated carbon injection to comply with the D/F emissions limitation under § 63.1343(b), you must demonstrate compliance using a CMS that is installed, operated, and maintained to record the rate of activated carbon injection in accordance with the requirements § 63.1350(h)(1).

(ii) If you use activated carbon injection to comply with the D/F emissions limitation under § 63.1343(b), you must demonstrate compliance using a CMS that is installed, operated and maintained to record the activated carbon injection system gas parameter in accordance with the requirements of § 63.1350(h)(2).

(6) THC Compliance. (i) If you are subject to limitations on THC emissions under § 63.1343(b), you must demonstrate compliance using the monitoring methods and procedures in § 63.1350(i) and (j).

(ii) THC must be measured either upstream of the coal mill or in the coal mill stack.

(7) Mercury Compliance. (i) If you are subject to limitations on mercury emissions in § 63.1343(b), you must demonstrate compliance using the monitoring methods and procedures in § 63.1350(k). If you use an integrated sorbent trap monitoring system to determine ongoing compliance, use the procedures described in § 63.1348(a)(5) to assign hourly mercury concentration values and to calculate rolling 30 operating day emissions rates. Since you assign the mercury concentration measured with the sorbent trap to each relevant hour respectively for each operating day of the integrated period, you may schedule the sorbent trap change periods to any time of the day (i.e., the sorbent trap replacement need not be scheduled at 12:00 midnight nor must the sorbent trap replacements occur only at integral 24-hour intervals).

(ii) Mercury must be measured either upstream of the coal mill or in the coal mill stack.

(8) *HCl Compliance.* If you are subject to limitations on HCl emissions under § 63.1343(b), you must demonstrate compliance using the performance test methods and procedures in § 63.1349(b)(6).

(i) For an affected source that is not equipped with a wet scrubber, tray tower or a dry sorbent injection system, you must demonstrate compliance using the monitoring methods and procedures in § 63.1350(l)(1).

(ii) For an affected source that is equipped with a wet scrubber, tray tower or a dry sorbent injection system, you may demonstrate compliance using the monitoring methods and procedures in § 63.1350(l)(2).

(iii) HCl may be measured either upstream of the coal mill or in the coal mill stack.

(iv) As an alternative to paragraph (b)(8)(ii) of this section, you may use an SO_2 CEMS to establish an SO_2 operating level during your initial and repeat HCl performance tests and monitor the SO_2 level using the procedures in § 63.1350(l)(3).

(9) Startup and Shutdown Compliance. In order to demonstrate continuous compliance during startup and shutdown, all air pollution control devices must be operating.

(c) * * *

(2) * * *

(iv) The performance test must be completed within 360 hours after the planned operational change period begins.

* * * * *

■ 17. Section 63.1349 is amended by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (b)(1);

■ c. Revising paragraph (b)(3) introductory text;

■ d. Revising paragraphs (b)(3)(v) and (vi);

■ e. Revising paragraphs (b)(4), (5), and (6);

■ f. Adding paragraph (b)(7) and (8); and

■ g. Revising paragraphs (c), (d)(1) introductory text, (d)(1)(ii), (d)(2), and (e).

The revisions and additions read as follows:

§ 63.1349 Performance testing requirements.

(a) You must document performance test results in complete test reports that contain the information required by paragraphs (a)(1) through (10) of this section, as well as all other relevant information. As described in § 63.7(c)(2)(i), you must make available to the Administrator prior to testing, if requested, the site-specific test plan to be followed during performance testing. For purposes of determining exhaust gas flow rate to the atmosphere from an alkali bypass stack or a coal mill stack, you must either install, operate, calibrate and maintain an instrument for continuously measuring and recording the exhaust gas flow rate according to the requirements in paragraphs § 63.1350(n)(1) through (10) of this subpart or use the maximum design exhaust gas flow rate. For purposes of determining the combined emissions from kilns equipped with an alkali bypass or that exhaust kiln gases to a coal mill that exhausts through a separate stack, instead of installing a CEMS on the alkali bypass stack or coal mill stack, you may use the results of the initial and subsequent performance test to demonstrate compliance with the relevant emissions limit.

* * * * *

(b)(1) *PM emissions tests.* The owner or operator of a kiln subject to limitations on PM emissions shall demonstrate initial compliance by conducting a performance test using Method 5 or Method 5I at appendix A–3 to part 60 of this chapter. You must

also monitor continuous performance through use of a PM continuous parametric monitoring system (PM CPMS).

(i) For your PM CPMS, you will establish a site-specific operating limit. If your PM performance test demonstrates your PM emission levels to be below 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test, the milliamp equivalent of zero output from your PM CPMS, and the average PM result of your compliance test to establish your operating limit. If your PM compliance test demonstrates your PM emission levels to be at or above 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test to establish your operating limit. You will use the PM CPMS to demonstrate continuous compliance with your operating limit. You must repeat the performance test annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(A) Your PM CPMS must provide a 4–20 milliamp output and the establishment of its relationship to manual reference method measurements must be determined in units of milliamps.

(B) Your PM CPMS operating range must be capable of reading PM concentrations from zero to a level equivalent to three times your allowable emission limit. If your PM CPMS is an auto-ranging instrument capable of multiple scales, the primary range of the instrument must be capable of reading PM concentration from zero to a level equivalent to three times your allowable emission limit.

(C) During the initial performance test or any such subsequent performance test that demonstrates compliance with the PM limit, record and average all milliamp output values from the PM CPMS for the periods corresponding to the compliance test runs (e.g., average all your PM CPMS output values for three corresponding 2-hour Method 5I test runs).

(ii) Determine your operating limit as specified in paragraphs (b)(1)(iii) through (iv) of this section. If your PM performance test demonstrates your PM emission levels to be below 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test, the milliamp equivalent of zero output from your PM CPMS, and the average PM result of your compliance test to establish your operating limit. If your PM compliance test demonstrates your PM emission levels to be at or above 75 percent of your emission limit you will use the average PM CPMS value recorded during the PM compliance test to establish your operating limit. You must verify an existing or establish a new operating limit after each repeated performance test. You must repeat the performance test at least annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(iii) If the average of your three Method 5 or 5I compliance test runs is below 75 percent of your PM emission limit, you must calculate an operating limit by establishing a relationship of PM CPMS signal to PM concentration using the PM CPMS instrument zero, the average PM CPMS values corresponding to the three compliance test runs, and the average PM concentration from the Method 5 or 5I compliance test with the procedures in (a)(1)(iii)(A) through (D) of this section.

(A) Determine your PM CPMS instrument zero output with one of the following procedures.

(*1*) Zero point data for in-situ instruments should be obtained by removing the instrument from the stack and monitoring ambient air on a test bench.

(*2*) Zero point data for extractive instruments should be obtained by removing the extractive probe from the stack and drawing in clean ambient air.

(*3*) The zero point may also be established by performing manual reference method measurements when the flue gas is free of PM emissions or contains very low PM concentrations (e.g., when your process is not operating, but the fans are operating or your source is combusting only natural gas) and plotting these with the compliance data to find the zero intercept.

(*4*) If none of the steps in paragraphs (a)(1)(iii)(A)(*1*) through (*3*) of this section are possible, you must use a zero output value provided by the manufacturer.

(B) Determine your PM CPMS instrument average in milliamps, and the average of your corresponding three PM compliance test runs, using equation 3.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_1 \,, \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_1 \qquad \text{(Eq. 3)}$$

Where:

X_1 = The PM CPMS data points for the three runs constituting the performance test.

Y_1 = The PM concentration value for the three runs constituting the performance test.

n = The number of data points.

(C) With your instrument zero expressed in milliamps, your three run average PM CPMS milliamp value, and your three run PM compliance test average, determine a relationship of lb/ton-clinker per milliamp with Equation 4.

$$R = \frac{Y_1}{(X_1 - z)} \qquad \text{(Eq. 4)}$$

Where:

R = The relative lb/ton-clinker per milliamp for your PM CPMS.

Y_1 = The three run average lb/ton-clinker PM concentration.

X_1 = The three run average milliamp output from you PM CPMS.

z = The milliamp equivalent of your instrument zero determined from (b)(1)(iii)(A).

(D) Determine your source specific 30-day rolling average operating limit using the lb/ton-clinker per milliamp value from Equation 4 in Equation 5, below. This sets your operating limit at the PM CPMS output value corresponding to 75 percent of your emission limit.

$$O_l = z + \frac{0.75(L)}{R} \qquad \text{(Eq. 5)}$$

Where:

O_l = The operating limit for your PM CPMS on a 30-day rolling average, in milliamps.

L = Your source emission limit expressed in lb/ton clinker.

z = Your instrument zero in milliamps, determined from (1)(i).

R = The relative lb/ton-clinker per milliamp for your PM CPMS, from Equation 4.

(iv) If the average of your three PM compliance test runs is at or above 75 percent of your PM emission limit you must determine your operating limit by averaging the PM CPMS milliamp output corresponding to your three PM performance test runs that demonstrate compliance with the emission limit using Equation 6.

$$O_h = \frac{1}{n}\sum_{i=1}^{n} X_1 \qquad \text{(Eq. 6)}$$

Where:

X_1 = The PM CPMS data points for all runs i.

n = The number of data points.

O_h = Your site specific operating limit, in milliamps.

(v) To determine continuous operating compliance, you must record the PM CPMS output data for all periods when the process is operating, and use all the PM CPMS data for calculations when the source is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the PM CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (milliamps) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 7 to determine the 30 kiln operating day average.

$$30\text{kiln operating day} = \frac{\sum_{i=1}^{n} Hpv_i}{n} \qquad \text{(Eq. 7)}$$

Where:

Hpvi = The hourly parameter value for hour i.

n = The number of valid hourly parameter values collected over 30 kiln operating days.

(vi) For each performance test, conduct at least three separate test runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. Conduct each test run to collect a minimum sample volume of 2 dscm for determining compliance with a new source limit and 1 dscm for determining compliance with an existing source limit. Calculate the average of the results from three consecutive runs, including applicable sources as required by (D)(viii), to determine compliance. You need not determine the particulate matter collected in the impingers (''back half'') of the Method 5 or Method 5I particulate sampling train to demonstrate compliance with the PM standards of this subpart. This shall not preclude the permitting authority from requiring a determination of the ''back half'' for other purposes.

(vii) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report must also include the make and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (e.g. beta attenuation), span of the instruments primary analytical range, milliamp value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp signals corresponding to each PM compliance test run.

(viii) When there is an alkali bypass and/or an inline coal mill with a separate stack associated with a kiln, the main exhaust and alkali bypass and/or inline coal mill must be tested simultaneously and the combined emission rate of PM from the kiln and alkali bypass and/or inline coal mill must be computed for each run using Equation 8 of this section.

$$E_c = \frac{E_K + E_B + E_C}{P} \qquad \text{(Eq. 8)}$$

Where:

E_C = Combined hourly emission rate of PM from the kiln and bypass stack and/or inline coal mill, lb/ton of kiln clinker production.

E_K = Hourly emissions of PM emissions from the kiln, lb.

E_B = Hourly PM emissions from the alkali bypass stack, lb.

E_C = Hourly PM emissions from the inline coal mill stack, lb.

P = Hourly clinker production, tons.

(ix) The owner or operator of a kiln with an in-line raw mill and subject to limitations on PM emissions shall demonstrate initial compliance by conducting separate performance tests while the raw mill is under normal operating conditions and while the raw mill is not operating.

* * * * *

(3) *D/F Emissions Tests.* If you are subject to limitations on D/F emissions under this subpart, you must conduct a performance test using Method 23 of appendix A–7 to part 60 of this chapter. If your kiln or in-line kiln/raw mill is equipped with an alkali bypass, you must conduct simultaneous performance tests of the kiln or in-line kiln/raw mill exhaust and the alkali bypass. You may conduct a performance test of the alkali bypass exhaust when the raw mill of the in-line kiln/raw mill is operating or not operating.

* * * * *

(v)(A) If sorbent injection is used for D/F control, you must record the rate of sorbent injection to the kiln exhaust, and where applicable, the rate of sorbent injection to the alkali bypass exhaust, continuously during the period of the Method 23 test in accordance with the conditions in § 63.1350(m)(9), and include the continuous injection rate record(s) in the performance test report. Determine the sorbent injection rate parameters in accordance with paragraphs (b)(3)(vi) of this section.

(B) Include the brand and type of sorbent used during the performance test in the performance test report.

(C) Maintain a continuous record of either the carrier gas flow rate or the carrier gas pressure drop for the duration of the performance test. If the carrier gas flow rate is used, determine, record, and maintain a record of the accuracy of the carrier gas flow rate monitoring system according to the procedures in appendix A to part 75 of this chapter. If the carrier gas pressure drop is used, determine, record, and maintain a record of the accuracy of the carrier gas pressure drop monitoring system according to the procedures in § 63.1350(m)(6).

(vi) Calculate the run average sorbent injection rate for each run and determine and include the average of the run average injection rates in the performance test report and determine the applicable injection rate limit in accordance with § 63.1346(c)(1).

(4) *THC emissions test.* (i) If you are subject to limitations on THC emissions, you must operate a CEMS in accordance with the requirements in § 63.1350(i). For the purposes of conducting the accuracy and quality assurance evaluations for CEMS, the THC span value (as propane) is 50 ppmvd and the reference method (RM) is Method 25A of appendix A to part 60 of this chapter.

(ii) Use the THC CEMS to conduct the initial compliance test for the first 30 kiln operating days of kiln operation after the compliance date of the rule. See 63.1348(a).

(iii) If kiln gases are diverted through an alkali bypass or to a coal mill and exhausted through a separate stack, you must calculate a kiln-specific THC limit using Equation 9:

$$Cks = \frac{(MACT\ Limit \times (Qab + Qcm + Qks)) - (Qab \times Cab) - (Qcm \times Ccm)}{Qks} \quad \text{((Eq. 9)}$$

Where:

Cks = Kiln stack concentration (ppmvd).
Qab = Alkali bypass flow rate (volume/hr).
Cab = Alkali bypass concentration (ppmvd).
Qcm = Coal mill flow rate (volume/hr).
Ccm = Coal mill concentration (ppmvd).
Qks = Kiln stack flow rate (volume/hr).

(iv) THC must be measured either upstream of the coal mill or the coal mill stack.

(v) Instead of conducting the performance test specified in paragraph (b)(4)of this section, you may conduct a performance test to determine emissions of total organic HAP by following the procedures in paragraphs (b)(7) of this section.

(5) *Mercury Emissions Tests.* If you are subject to limitations on mercury emissions, you must operate a mercury CEMS or a sorbent trap monitoring system in accordance with the requirements of § 63.1350(k). The initial compliance test must be based on the first 30 kiln operating days in which the affected source operates using a mercury CEMS or a sorbent trap monitoring system after the compliance date of the rule. See § 63.1348(a).

(i) If you are using a mercury CEMS or a sorbent trap monitoring system, you must install, operate, calibrate, and maintain an instrument for continuously measuring and recording the exhaust gas flow rate to the atmosphere according to the requirements in § 63.1350(k)(5).

(ii) Calculate the emission rate using Equation 10 of this section:

$$E_{30D} = k\,\frac{\sum_{i=1}^{n} C_i Q_i}{P} \quad \text{(Eq. 10)}$$

Where:

E_{30D} = 30-day rolling emission rate of mercury, lb/MM tons clinker.
C_i = Concentration of mercury for operating hour i, µg/scm.
Q_i = Volumetric flow rate of effluent gas for operating hour i, where C_i and Q_i are on the same basis (either wet or dry), scm/hr.
k = Conversion factor, 1 lb/454,000,000 µg.
n = Number of kiln operating hours in a 30 kiln operating day period.
P = 30 days of clinker production during the same time period as the mercury emissions measured, million tons.

(6) *HCl emissions tests.* For a source subject to limitations on HCl emissions you must conduct performance testing by one of the following methods:

(i)(A) If the source is equipped with a wet scrubber, tray tower or dry scrubber, you must conduct performance testing using Method 321 of appendix A to this part unless you have installed a CEMS that meets the requirements § 63.1350(l)(1). For kilns with inline raw mills, testing should be conducted for the raw mill on and raw mill off conditions.

(B) You must establish site specific parameter limits by using the CPMS required in § 63.1350(l)(1). For a wet scrubber or tray tower, measure and record the pressure drop across the scrubber and/or liquid flow rate and pH in intervals of no more than 15 minutes during the HCl test. Compute and record the 24-hour average pressure drop, pH, and average scrubber water flow rate for each sampling run in which the applicable emissions limit is met. For a dry scrubber, measure and record the sorbent injection rate in intervals of no more than 15 minutes during the HCl test. Compute and record the 24-hour average sorbent injection rate and average sorbent injection rate for each sampling run in which the applicable emissions limit is met.

(ii)(A) If the source is not controlled by a wet scrubber, tray tower or dry sorbent injection system, you must operate a CEMS in accordance with the requirements of § 63.1350(l)(1). See § 63.1348(a).

(B) The initial compliance test must be based on the 30 kiln operating days that occur after the compliance date of this rule in which the affected source operates using a HCl CEMS. Hourly HCl concentration data must be obtained according to § 63.1350(l).

(iii) As an alternative to paragraph (b)(6)(i)(B) of this section, you may choose to monitor SO_2 emissions using a CEMS in accordance with the

requirements of § 63.1350(l)(3). You must establish an SO_2 operating limit equal to the highest 1 hour average recorded during the HCl stack test. This operating limit will apply only for demonstrating HCl compliance.

(iv) If kiln gases are diverted through an alkali bypass or to a coal mill and exhausted through a separate stack, you must calculate a kiln-specific HCl limit using Equation 11:

$$Cks = \frac{(MACT\ Limit \times (Qab + Qcm + Qks)) - (Qab \times Cab) - (Qcm \times Ccm)}{Qks} \quad \text{(Eq. 11)}$$

Where:

Cks = Kiln stack concentration (ppmvd).
Qab = Alkali bypass flow rate (volume/hr).
Cab = Alkali bypass concentration (ppmvd).
Qcm = Coal mill flow rate (volume/hr).
Ccm = Coal mill concentration (ppmvd).
Qks = Kiln stack flow rate (volume/hr).

(7) *Total Organic HAP Emissions Tests.* Instead of conducting the performance test specified in paragraph (a)(4) of this section, you may conduct a performance test to determine emissions of total organic HAP by following the procedures in paragraphs (a)(7)(i) through (v) of this section.

(i) Use Method 320 of appendix A to this part, Method 18 of Appendix A of part 60, ASTM D6348–03 or a combination to determine emissions of total organic HAP. Each performance test must consist of three separate runs under the conditions that exist when the affected source is operating at the representative performance conditions in accordance with § 63.7(e). Each run must be conducted for at least 1 hour.

(ii) At the same time that you are conducting the performance test for total organic HAP, you must also determine a site-specific THC emissions limit by operating a THC CEMS in accordance with the requirements of § 63.1350(j). The duration of the performance test must be at least 3 hours and the average THC concentration (as calculated from the 1-minute averages) during the 3-hour test must be calculated. You must establish your THC operating limit and determine compliance with it according to paragraphs (a)(7)(vii)through (viii)of this section. It is permissible to extend the testing time of the organic HAP performance test if you believe extended testing is required to adequately capture THC variability over time.

(iii) If your source has an in-line kiln/raw mill you must use the fraction of time the raw mill is on and the fraction of time that the raw mill is off and calculate this limit as a weighted average of the THC levels measured during raw mill on and raw mill off testing.

(iv) If your organic HAP emissions are below 75 percent of the organic HAP standard and you determine your operating limit with paragraph (b)(7)(vii) of this section your THC CEMS must be calibrated and operated on a measurement scale no greater than 180 ppmvw, as carbon, or 60 ppmvw as propane.

(v) Your THC CEMS measurement scale must be capable of reading THC concentrations from zero to a level equivalent to two times your highest THC emissions average determined during your performance test, including mill on or mill off operation. **Note:** This may require the use of a dual range instrument to meet this requirement and paragraph (b)(7)(iv) of this section.

(vi) Determine your operating limit as specified in paragraphs (a)(7)(vii) and (viii) of this section. If your organic HAP performance test demonstrates your average organic HAP emission levels are below 75 percent of your emission limit (9 ppmv) you will use the average THC value recorded during the organic HAP performance test, and the average total organic HAP result of your performance test to establish your operating limit. If your organic HAP compliance test results demonstrate your average organic HAP emission levels are at or above 75 percent of your emission limit, your operating limit is established as the average THC value recorded during the organic HAP performance test. You must establish a new operating limit after each performance test. You must repeat the performance test no later than 30 months following your last performance test and reassess and adjust the site-specific operating limit in accordance with the results of the performance test.

(vii) If the average organic HAP results for your three Method 18 and/or Method 320 performance test runs are below 75 percent of your organic HAP emission limit, you must calculate an operating limit by establishing a relationship of THC CEMS signal to the organic HAP concentration using the average THC CEMS value corresponding to the three organic HAP compliance test runs and the average organic HAP total concentration from the Method 18 and/or Method 320 performance test runs with the procedures in (a)(7)(vii)(A) and (B) of this section.

(A) Determine the THC CEMS average values in ppmvw, and the average of your corresponding three total organic HAP compliance test runs, using Equation 12.

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} X_i \ , \bar{y} = \frac{1}{n}\sum_{i=1}^{n} Y_i \quad \text{(Eq. 12)}$$

Where:

$\bar{x}$ = The THC CEMS average values in ppmvw.
Xi= The THC CEMS data points for all three runs i.
Yi= The sum of organic HAP concentrations for test runs i. and
n = The number of data points.

(B) You must use your three run average THC CEMS value, and your three run average organic HAP concentration from your three Method 18 and/or Method 320 compliance tests to determine the operating limit. Use equation 13 to determine your operating limit in units of ppmvw THC, as propane.

$$T_l = \left(\frac{9}{Y_1}\right) * X_1 \quad \text{(Eq. 13)}$$

Where:

T_l = The 30-day operating limit for your THC CEMS, ppmvw.

Y_1 = The average organic HAP concentration from Eq. 12, ppmv.

X_1 = The average THC CEMS concentration from Eq. 12, ppmvw.

(viii) If the average of your three organic HAP performance test runs is at or above 75 percent of your organic HAP emission limit, you must determine your operating limit using Equation 14 by averaging the THC CEMS output values corresponding to your three organic HAP performance test runs that demonstrate compliance with the emission limit. If your new THC CEMS value is below your current operating limit, you may opt to retain your current operating limit, but you must still submit all performance test and THC CEMS data according to the reporting requirements in paragraph (d)(1) of this section.

$$T_h = \frac{1}{n}\sum_{i=1}^{n} X_1 \, , \qquad \text{(Eq. 14)}$$

Where:

X1 = The THC CEMS data points for all runs i.

Y1 = The organic HAP total value for runs i.

n = The number of data points.

T_h = Your site specific operating limit, in ppmvw THC.

(ix) If your kiln has an inline kiln/raw mill, you must conduct separate performance tests while the raw mill is operating (''mill on'') and while the raw mill is not operating (''mill off''). Using the fraction of time the raw mill is on and the fraction of time that the raw mill is off, calculate this limit as a weighted average of the THC levels measured during raw mill on and raw mill off compliance testing with Equation 15.

$$R=(y*t)+(x*(1-t)) \qquad \text{(Eq.15)}$$

Where:

R = Operating limit as THC, ppmvw.

y = Average THC CEMS value during mill on operations, ppmvw.

t = Percentage of operating time with mill on.

x = Average THC CEMS value during mill off operations, ppmvw.

(1-t) = Percentage of operating time with mill off.

(x) To determine continuous compliance with the THC operating limit, you must record the THC CEMS output data for all periods when the process is operating and the THC CEMS is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the THC CEMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (ppmvw) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 16 to determine the 30 kiln operating day average.

$$30\text{kiln operating day} = \frac{\sum_{i=1}^{n} Hpv_i}{n} \qquad \text{(Eq. 16)}$$

Where:

Hpvi = The hourly parameter value for hour i, ppmvw.

n = The number of valid hourly parameter values collected over 30 kiln operating days.

(xi) Use EPA Method 18 or Method 320 of appendix A to part 60 of this chapter to determine organic HAP emissions. For each performance test, conduct at least three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. If your source has an in-line kiln/raw mill you must conduct three separate test runs with the raw mill on, and three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur with the mill off. Conduct each Method 18 test run to collect a minimum target sample equivalent to three times the method detection limit. Calculate the average of the results from three runs to determine compliance.

(xii) If the THC level exceeds by 10 percent or more your site-specific THC emissions limit, you must

(A) As soon as possible but no later than 30 days after the exceedance, conduct an inspection and take corrective action to return the THC CEMS measurements to within the established value; and

(B) Within 90 days of the exceedance or at the time of the annual compliance test, whichever comes first, conduct another performance test to determine compliance with the organic HAP limit and to verify or re-establish your site-specific THC emissions limit.

(8) HCl Emissions Tests with SO_2 Monitoring. If you choose to monitor SO_2 emissions using a CEMS to demonstrate HCl compliance, follow the procedures in (b)(8)(i) through (ix) of this section and in accordance with the requirements of § 63.1350(l)(3). You must establish an SO_2 operating limit equal to the average of the SO_2 emissions recorded during the HCl stack test. This operating limit will apply only for demonstrating HCl compliance.

(i) Use Method 321 of appendix A to this part to determine emissions of HCl. Each performance test must consist of three separate runs under the conditions that exist when the affected source is operating at the representative performance conditions in accordance with § 63.7(e). Each run must be conducted for at least one hour.

(ii) At the same time that you are conducting the performance test for HCl, you must also determine a site-specific SO_2 emissions limit by

operating an SO_2 CEMS in accordance with the requirements of § 63.1350(l). The duration of the performance test must be three hours and the average SO_2 concentration (as calculated from the 1-minute averages) during the 3-hour test must be calculated. You must establish your SO_2 operating limit and determine compliance with it according to paragraphs (b)(8)(vii) and (viii)of this section.

(iii) If your source has an in-line kiln/raw mill you must use the fraction of time the raw mill is on and the fraction of time that the raw mill is off and calculate this limit as a weighted average of the SO_2 levels measured during raw mill on and raw mill off testing.

(iv) Your SO_2 CEMS must be calibrated and operated according to the requirements of § 60.63(f).

(v) Your SO_2 CEMS measurement scale must be capable of reading SO_2 concentrations consistent with the requirements of § 60.63(f), including mill on or mill off operation.

(vi) If your kiln has an inline kiln/raw mill, you must conduct separate performance tests while the raw mill is operating (''mill on'') and while the raw mill is not operating (''mill off''). Using the fraction of time the raw mill is on and the fraction of time that the raw mill is off, calculate this limit as a weighted average of the THC levels measured during raw mill on and raw mill off compliance testing with Equation 17.

$$R=(y*t)+x*(t-1) \qquad \text{(Eq. 17)}$$

Where:

R = Operating limit as SO_2, ppmvw.

y = Average SO_2 CEMS value during mill on operations, ppmvw.

t = Percentage of operating time with mill on, expressed as a decimal.

x = Average SO_2 CEMS value during mill off operations, ppmvw.

t − 1 = Percentage of operating time with mill off, expressed as a decimal.

(vii) To determine continuous compliance with the SO_2 operating limit, you must record the SO_2 CEMS output data for all periods when the process is operating and the SO_2 CEMS is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the SO_2 CEMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (ppmvw) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day. Use Equation 18 to determine the 30 kiln operating day average.

$$30\text{kiln operating day} = \frac{\sum_{i=1}^{n} Hpv_i}{n} \qquad \text{(Eq. 18)}$$

Where:

Hpvi = The hourly parameter value for hour i, ppmvw.

n = The number of valid hourly parameter values collected over 30 kiln operating days.

(viii) Use EPA Method 321 of appendix A to part 60 of this chapter to determine HCl emissions. For each performance test, conduct at least three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur. If your source has an in-line kiln/raw mill you must conduct three separate test runs with the raw mill on, and three separate runs under the conditions that exist when the affected source is operating at the highest load or capacity level reasonably expected to occur with the mill off.

(ix) If the SO_2 level exceeds by 10 percent or more your site-specific SO_2 emissions limit, you must

(A) As soon as possible but no later than 30 days after the exceedance, conduct an inspection and take corrective action to return the SO_2 CEMS measurements to within the established value. and

(B) Within 90 days of the exceedance or at the time of the annual compliance test, whichever comes first, conduct another performance test to determine compliance with the HCl limit and to verify or re-establish your site-specific SO_2 emissions limit.

(c) *Performance Test Frequency.* Except as provided in § 63.1348(b), performance tests are required at regular intervals for affected sources that are subject to a dioxin, organic HAP or HCl emissions limit and must be repeated every 30 months except for pollutants where that specific pollutant is monitored using CEMS. Tests for PM are repeated every 12 months.

(d) *Performance Test Reporting Requirements.* (1) You must submit the information specified in paragraphs (d)(1) and (2) of this section no later than 60 days following the initial performance test. All reports must be signed by a responsible official.

* * * * *

(ii) The values for the site-specific operating limits or parameters established pursuant to paragraphs (b)(1), (3), (6), and (7) of this section, as applicable, and a description, including sample calculations, of how the operating parameters were established during the initial performance test.

(2) As of December 31, 2011 and within 60 days after the date of completing each performance evaluation or test, as defined in § 63.2, conducted to demonstrate compliance with any standard covered by this subpart, you must submit the relative accuracy test audit data and performance test data, except opacity data, to the EPA by successfully submitting the data electronically to the EPA's Central Data Exchange (CDX) by using the Electronic Reporting Tool(ERT) (see *http://www.epa.gov/ttn/chief/ert/ert_tool.html/*).

(e) *Conditions of performance tests.* Conduct performance tests under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

■ 18. Section 63.1350 is amended by:

■ a. Revising paragraphs (a) through (d);

■ b. Revising paragraph (f) introductory text;

■ c. Revising paragraphs (f)(1)(iv) through (f)(1)(vi);
■ d. Revising paragraphs (f)(2)(i) and (f)(2)(iii);
■ e. Revising paragraphs (f)(3) and (f)(4);
■ f. Revising paragraph (g)(1) introductory text;
■ g. Revising paragraphs (g)(2) and (g)(4);
■ h. Revising paragraph (h)(1)(ii);
■ i. Revising paragraphs (i)(1) and (i)(2);
■ j. Revising paragraph (k);
■ k. Revising paragraph (l);
■ l. Revising paragraph (m) introductory text;
■ m. Revising paragraphs (m)(3) and (m)(7)(i);
■ n. Revising introductory text for paragraphs (m)(9) and (m) (10);
■ o. Revising paragraph (m)(10)(i) through (m)(10)(vii), and paragraph (m)(11)(v);
■ p. Revising introductory text for paragraphs (n), (o), and (p);
■ q. Removing and reserving paragraph (n)(3); and
■ r. Revising introductory text for paragraphs (p)(1), (p)(2), and (p)(5).

The revisions and additions read as follows:

§ 63.1350 Monitoring requirements.

(a)(1) Following the compliance date, the owner or operator must demonstrate compliance with this subpart on a continuous basis by meeting the requirements of this section.

(2) All continuous monitoring data for periods of startup and shutdown must be compiled and averaged separately from data gathered during other operating periods.

(3) For each existing unit that is equipped with a CMS, maintain the average emissions or the operating parameter values within the operating parameter limits established through performance tests.

(4) Any instance where the owner or operator fails to comply with the continuous monitoring requirements of this section is a violation.

(b) *PM monitoring requirements.* (1)(i) *PM CPMS.* You will use a PM CPMS to establish a site-specific operating limit corresponding to the results of the performance test demonstrating compliance with the PM limit. You will conduct your performance test using Method 5 or Method 5I at appendix A–3 to part 60 of this chapter. You will use the PM CPMS to demonstrate continuous compliance with this operating limit. You must repeat the performance test annually and reassess and adjust the site-specific operating limit in accordance with the results of the performance test using the procedures in § 63.1349(b)(1) (i) through (vi) of this subpart. You must also repeat the test if you change the analytical range of the instrument, or if you replace the instrument itself or any principle analytical component of the instrument that would alter the relationship of output signal to in-stack PM concentration.

(ii) To determine continuous compliance, you must use the PM CPMS output data for all periods when the process is operating and the PM CPMS is not out-of-control. You must demonstrate continuous compliance by using all quality-assured hourly average data collected by the PM CPMS for all operating hours to calculate the arithmetic average operating parameter in units of the operating limit (milliamps) on a 30 operating day rolling average basis, updated at the end of each new kiln operating day.

(iii) For any exceedance of the 30 process operating day PM CPMS average value from the established operating parameter limit, you must:

(A) Within 48 hours of the exceedance, visually inspect the APCD;

(B) If inspection of the APCD identifies the cause of the exceedance, take corrective action as soon as possible and return the PM CPMS measurement to within the established value; and

(C) Within 30 days of the exceedance or at the time of the annual compliance test, whichever comes first, conduct a PM emissions compliance test to determine compliance with the PM emissions limit and to verify or re-establish the PM CPMS operating limit within 45 days. You are not required to conduct additional testing for any exceedances that occur between the time of the original exceedance and the PM emissions compliance test required under this paragraph.

(iv) PM CPMS exceedances leading to more than four required performance tests in a 12-month process operating period (rolling monthly) constitute a presumptive violation of this subpart.

(2) [Reserved]

(c) [Reserved]

(d) *Clinker production monitoring requirements.* In order to determine clinker production, you must:

(1) Determine hourly clinker production by one of two methods:

(i) Install, calibrate, maintain, and operate a permanent weigh scale system to measure and record weight rates in tons-mass per hour of the amount of clinker produced. The system of measuring hourly clinker production must be maintained within ±5 percent accuracy, or

(ii) Install, calibrate, maintain, and operate a permanent weigh scale system to measure and record weight rates in tons-mass per hour of the amount of feed to the kiln. The system of measuring feed must be maintained within ±5 percent accuracy. Calculate your hourly clinker production rate using a kiln-specific feed to clinker ratio based on reconciled clinker production determined for accounting purposes and recorded feed rates. Update this ratio monthly. Note that if this ratio changes at clinker reconciliation, you must use the new ratio going forward, but you do not have to retroactively change clinker production rates previously estimated.

(iii) [Reserved]

(2) Determine, record, and maintain a record of the accuracy of the system of measuring hourly clinker production (or feed mass flow if applicable) before initial use (for new sources) or by the effective compliance date of this rule (for existing sources). During each quarter of source operation, you must determine, record, and maintain a record of the ongoing accuracy of the system of measuring hourly clinker production (or feed mass flow).

(3) If you measure clinker production directly, record the daily clinker production rates; if you measure the kiln feed rates and calculate clinker production, record the hourly kiln feed and clinker production rates.

(4) Develop an emissions monitoring plan in accordance with paragraphs (p)(1) through (p)(4) of this section.

* * * * *

(f) *Opacity Monitoring Requirements.* If you are subject to a limitation on opacity under § 63.1345, you must conduct required opacity monitoring in accordance with the provisions of paragraphs (f)(1)(i) through (vii) of this section and in accordance with your monitoring plan developed under § 63.1350(p). You must also develop an opacity monitoring plan in accordance with paragraphs (p)(1) through (4) and paragraph (o)(5), if applicable, of this section.

(1) * * *

(iv) If visible emissions are observed during any Method 22 performance test, of appendix A–7 to part 60 of this chapter, you must conduct 30 minutes of opacity observations, recorded at 15-second intervals, in accordance with Method 9 of appendix A–4 to part 60 of this chapter. The Method 9 performance test, of appendix A–4 to part 60 of this chapter, must begin within 1 hour of any observation of visible emissions.

(v) Any totally enclosed conveying system transfer point, regardless of the location of the transfer point is not required to conduct Method 22 visible emissions monitoring under this

paragraph. The enclosures for these transfer points must be operated and maintained as total enclosures on a continuing basis in accordance with the facility operations and maintenance plan.

(vi) If any partially enclosed or unenclosed conveying system transfer point is located in a building, you must conduct a Method 22 performance test, of appendix A–7 to part 60 of this chapter, according to the requirements of paragraphs (f)(1)(i) through (iv) of this section for each such conveying system transfer point located within the building, or for the building itself, according to paragraph (f)(1)(vii) of this section.

* * * * *

(2)(i) For a raw mill or finish mill, you must monitor opacity by conducting daily visible emissions observations of the mill sweep and air separator PM control devices (PMCD) of these affected sources in accordance with the procedures of Method 22 of appendix A–7 to part 60 of this chapter. The duration of the Method 22 performance test must be 6 minutes.

* * * * *

(iii) If visible emissions are observed during the follow-up Method 22 performance test required by paragraph (f)(2)(ii) of this section from any stack from which visible emissions were observed during the previous Method 22 performance test required by paragraph (f)(2)(i) of the section, you must then conduct an opacity test of each stack from which emissions were observed during the follow up Method 22 performance test in accordance with Method 9 of appendix A–4 to part 60 of this chapter. The duration of the Method 9 test must be 30 minutes.

(3) If visible emissions are observed during any Method 22 visible emissions test conducted under paragraphs (f)(1) or (2) of this section, you must initiate, within one-hour, the corrective actions specified in your operation and maintenance plan as required in § 63.1347.

(4) The requirements under paragraph (f)(2) of this section to conduct daily Method 22 testing do not apply to any specific raw mill or finish mill equipped with a COMS or BLDS.

(i) If the owner or operator chooses to install a COMS in lieu of conducting the daily visible emissions testing required under paragraph (f)(2) of this section, then the COMS must be installed at the outlet of the PM control device of the raw mill or finish mill and the COMS must be installed, maintained, calibrated, and operated as required by the general provisions in subpart A of this part and according to PS–1 of appendix B to part 60 of this chapter.

(ii) If you choose to install a BLDS in lieu of conducting the daily visible emissions testing required under paragraph (f)(2) of this section, the requirements in paragraphs (m)(1) through (m)(4), (m)(10) and (m)(11) of this section apply.

(g) * * *

(1) You must install, calibrate, maintain, and continuously operate a CMS to record the temperature of the exhaust gases from the kiln and alkali bypass, if applicable, at the inlet to, or upstream of, the kiln and/or alkali bypass PMCDs.

* * * * *

(2) You must monitor and continuously record the temperature of the exhaust gases from the kiln and alkali bypass, if applicable, at the inlet to the kiln and/or alkali bypass PMCD.

* * * * *

(4) Calculate the rolling three-hour average temperature using the average of 180 successive one-minute average temperatures. See § 63.1349(b)(3).

* * * * *

(h) * * *

(1) * * *

(ii) Each hour, calculate the three-hour rolling average activated carbon injection rate for the previous three hours of process operation. See § 63.1349(b)(3).

* * * * *

(i) * * *

(1) You must install, operate, and maintain a THC continuous emission monitoring system in accordance with Performance Specification 8A of appendix B to part 60 of this chapter and comply with all of the requirements for continuous monitoring systems found in the general provisions, subpart A of this part. The owner or operator must operate and maintain each CEMS according to the quality assurance requirements in Procedure 1 of appendix F in part 60 of this chapter.

(2) Performance tests on alkali bypass and coal mill stacks must be conducted using Method 25A in appendix A to 40 CFR part 60 and repeated annually.

* * * * *

(k) *Mercury Monitoring Requirements.* If you have a kiln subject to an emissions limitation on mercury emissions, you must install and operate a mercury continuous emissions monitoring system (Hg CEMS) in accordance with Performance Specification 12A (PS 12A) of appendix B to part 60 of this chapter or an integrated sorbent trap monitoring system in accordance with Performance Specification 12B (PS 12B) of appendix B to part 60 of this chapter. You must monitor mercury continuously according to paragraphs (k)(1) through (5) of this section. You must also develop an emissions monitoring plan in accordance with paragraphs (p)(1) through (4) of this section.

(1) You must use a span value for any Hg CEMS that represents the mercury concentration corresponding to approximately two times the emissions standard and may be rounded up to the nearest multiple of 5 $\mu g/m^3$ of total mercury or higher level if necessary to include Hg concentrations which may occur (excluding concentrations during in-line raw ''mill off'' operation). As specified in PS 12A, Section 6.1.1, the data recorder output range must include the full range of expected Hg concentration values which would include those expected during ''mill off'' conditions. Engineering judgments made and calculations used to determine the corresponding span concentration from the emission standard shall be documented in the site-specific monitoring plan and associated records.

(2) In order to quality assure data measured above the span value, you must use one of the two options in paragraphs (k)(2)(i) and (ii) of this section.

(i) Include a second span that encompasses the Hg emission concentrations expected to be encountered during ''mill off'' conditions. This second span may be rounded to a multiple of 5 $\mu g/m^3$ of total mercury. The requirements of PS 12A, shall be followed for this second span with the exception that a RATA with the mill off is not required.

(ii) Quality assure any data above the span value established in paragraph (k)(1) of this section using the following procedure. Any time two consecutive one-hour average measured concentration of Hg exceeds the span value you must, within 24 hours before or after, introduce a higher, ''above span'' Hg reference gas standard to the Hg CEMS. The ''above span'' reference gas must meet the requirements of PS 12A, Section 7.1, must be of a concentration level between 50 and 150 percent of the highest hourly concentration measured during the period of measurements above span, and must be introduced at the probe. Record and report the results of this procedure as you would for a daily calibration. The ''above span'' calibration is successful if the value measured by the Hg CEMS is within 20 percent of the certified value of the reference gas. If the value measured by the Hg CEMS exceeds 20 percent of the

certified value of the reference gas, then you must normalize the one-hour average stack gas values measured above the span during the 24-hour period preceding or following the ''above span'' calibration for reporting based on the Hg CEMS response to the reference gas as shown in equation 19:

$$\frac{\text{Certified reference gas value}}{\text{Measured value of reference gas}} \times \text{Measured stack gas result} = \text{Normalized stack gas result} \quad \text{(Eq. 19)}$$

Only one 'above span' calibration is needed per 24 hour period.

(3) You must operate and maintain each Hg CEMS or an integrated sorbent trap monitoring system according to the quality assurance requirements in Procedure 5 of appendix F to part 60 of this chapter. During the RATA of integrated sorbent trap monitoring systems required under Procedure 5, you may apply the appropriate exception for sorbent trap section 2 breakthrough in (k)(3)(i) through (iv) of this section:

(i) For stack Hg concentrations >1 μg/dscm, ≤10% of section 1 mass;

(ii) For stack Hg concentrations ≤1 μg/dscm and >0.5 μg/dscm, ≤20% of section 1 mass;

(iii) For stack Hg concentrations ≤0.5 μg/dscm and >0.1 μg/dscm, ≤50% of section 1 mass; and

(iv) For stack Hg concentrations ≤0.1 μg/dscm, no breakthrough criterion assuming all other QA/QC specifications are met.

(4) Relative accuracy testing of mercury monitoring systems under PS 12A, PS 12B, or Procedure 5 must be conducted at normal operating conditions. If a facility has an inline raw mill, the testing must occur with the raw mill on.

(5) If you use a Hg CEMS or an integrated sorbent trap monitoring system, you must install, operate, calibrate, and maintain an instrument for continuously measuring and recording the exhaust gas flow rate to the atmosphere according to the requirements in paragraphs (n)(1) through (10) of this section. If kiln gases are diverted through an alkali bypass or to a coal mill and exhausted through separate stacks, you must account for the mercury emitted from those stacks by following the procedures in (k)(5)(i) through (iv) of this section:

(i) Develop a mercury hourly mass emissions rate by conducting annual performance tests using Method 29, or Method 30B, to measure the concentration of mercury in the gases exhausted from the alkali bypass and coal mill.

(ii) On a continuous basis, determine the mass emissions of mercury in lb/hr from the alkali bypass and coal mill exhausts by using the mercury hourly emissions rate, the exhaust gas flow rate and hourly mercury emission rate to calculate hourly mercury emissions in lb/hr.

(iii) Sum the hourly mercury emissions from the kiln, alkali bypass and coal mill to determine total mercury emissions. Using hourly clinker production, calculate the hourly emissions rate in pounds per ton of clinker to determine your 30 day rolling average.

(iv) If mercury emissions from the coal mill are below the method detection limit for two consecutive annual performance tests, you may reduce the frequency of the performance tests of coal mills to once every 30 months. If the measured mercury concentration exceeds the method detection limit, you must revert to testing annually until two consecutive annual tests are below the method detection limit.

(6) If you operate an integrated sorbent trap monitoring system conforming to PS 12B, you may use a monitoring period at least 24 hours but no longer than 168 hours in length. You should use a monitoring period that is a multiple of 24 hours (except during relative accuracy testing as allowed in PS 12B).

(l) *HCl Monitoring Requirements.* If you are subject to an emissions limitation on HCl emissions in § 63.1343, you must monitor HCl emissions continuously according to paragraph (l)(1) or (2) and paragraphs (m)(1) through (4) of this section or, if your kiln is controlled using a wet or dry scrubber or tray tower, you alternatively may parametrically monitor SO_2 emissions continuously according to paragraph (l)(3) of this section. You must also develop an emissions monitoring plan in accordance with paragraphs (p)(1) through (4) of this section.

(1) If you monitor compliance with the HCl emissions limit by operating an HCl CEMS, you must do so in accordance with Performance Specification 15 (PS 15) of appendix B to part 60 of this chapter, or, upon promulgation, in accordance with any other performance specification for HCl CEMS in appendix B to part 60 of this chapter. You must operate, maintain, and quality assure a HCl CEMS installed and certified under PS 15 according to the quality assurance requirements in Procedure 1 of appendix F to part 60 of this chapter except that the Relative Accuracy Test Audit requirements of Procedure 1 must be replaced with the validation requirements and criteria of sections 11.1.1 and 12.0 of PS 15. If you install and operate an HCl CEMS in accordance with any other performance specification for HCl CEMS in appendix B to part 60 of this chapter, you must operate, maintain and quality assure the HCl CEMS using the procedure of appendix F to part 60 of this chapter applicable to the performance specification. You must use Method 321 of appendix A to part 63 of this chapter as the reference test method for conducting relative accuracy testing. The span value and calibration requirements in paragraphs (l)(1)(i) and (ii) of this section apply to HCl CEMS other than those installed and certified under PS 15.

(i) You must use a span value for any HCl CEMS that represents the intended upper limit of the HCl concentration measurement range during normal inline raw ''mill on'' operation. The span value should be a concentration equivalent to approximately two times the emissions standard and it may be rounded to the nearest multiple of 5 ppm of HCl. The HCl CEMS data recorder output range must include the full range of expected HCl concentration values which would include those expected during ''mill off'' conditions. Engineering judgments made and calculations used to determine the corresponding span concentration from the emission standard shall be documented in the site-specific monitoring plan and associated records.

(ii) In order to quality assure data measured above the span value, you must use one of the two options in paragraphs (l)(1)(ii)(A) and (B) of this section.

(A) Include a second span that encompasses the HCl emission concentrations expected to be

encountered during ''mill off'' conditions. This second span may be rounded to a multiple of 5 μg/m³ of total HCl. The requirements of the appropriate HCl monitor performance specification, shall be followed for this second span with the exception that a RATA with the mill off is not required.

(B) Quality assure any data above the span value established in paragraph (1)(1)(i) of this section using the following procedure. Any time the average measured concentration of HCl exceeds or is expected to exceed the span value for greater than two hours you must, within a period 24 hours before or after the 'above span' period, introduce a higher, 'above span' HCl reference gas standard to the HCl CEMS. The 'above span' reference gas must meet the requirements of the applicable performance specification and be of a concentration level between 50 and 100 percent of the highest hourly concentration measured during the period of measurements above span, and must be introduced at the probe. Record and report the results of this procedure as you would for a daily calibration. The 'above span' calibration is successful if the value measured by the HCl CEMS is within 20 percent of the certified value of the reference gas. If the value measured by the HCl CEMS is not within 20 percent of the certified value of the reference gas, then you must normalize the stack gas values measured above span as described in paragraph (l)(1)(ii)(C) below. If the 'above span' calibration is conducted during the period when measured emissions are above span and there is a failure to collect the required minimum number of data points in an hour due to the calibration duration, then you must determine the emissions average for that missed hour as the average of hourly averages for the hour preceding the missed hour and the hour following the missed hour.

(C) In the event that the 'above span' calibration is not successful (i.e., the HCl CEMS measured value is not within 20 percent of the certified value of the reference gas), then you must normalize the one-hour average stack gas values measured above the span during the 24-hour period preceding or following the 'above span' calibration for reporting based on the HCl CEMS response to the reference gas as shown in Equation 20:

$$\frac{\text{Certified reference gas value}}{\text{Measured value of reference gas}} \times \text{Measured stack gas result} = \text{Normalized stack gas result} \qquad \text{(Eq. 20)}$$

Only one 'above span' calibration is needed per 24-hour period.

(2) Install, operate, and maintain a CMS to monitor wet scrubber or tray tower parameters, as specified in paragraphs (m)(5) and (7) of this section, and dry scrubber, as specified in paragraph (m)(9) of this section.

(3) If the source is equipped with a wet or dry scrubber or tray tower, and you choose to monitor SO_2 emissions, monitor SO_2 emissions continuously according to the requirements of § 60.63(e) through (f) of part 60 subpart F of this chapter. If SO_2 levels increase above the 30-day rolling average SO_2 operating limit established during your performance test, you must:

(i) As soon as possible but no later than 48 hours after you exceed the established SO_2 value conduct an inspection and take corrective action to return the SO_2 emissions to within the operating limit; and

(ii) Within 60 days of the exceedance or at the time of the next compliance test, whichever comes first, conduct an HCl emissions compliance test to determine compliance with the HCl emissions limit and to verify or re-establish the SO_2 CEMS operating limit.

(m) *Parameter Monitoring Requirements.* If you have an operating limit that requires the use of a CMS, you must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the procedures in paragraphs (m)(1) through (4) of this section by the compliance date specified in § 63.1351. You must also meet the applicable specific parameter monitoring requirements in paragraphs (m)(5) through (11) that are applicable to you.

* * * * *

(3) Determine the 1-hour block average of all recorded readings.

* * * * *

(7) * * *

(i) Locate the pH sensor in a position that provides a representative measurement of wet scrubber or tray tower effluent pH.

* * * * *

(9) *Mass Flow Rate (for Sorbent Injection) Monitoring Requirements.* If you have an operating limit that requires the use of equipment to monitor sorbent injection rate (*e.g.,* weigh belt, weigh hopper, or hopper flow measurement device), you must meet the requirements in paragraphs (m)(9)(i) through (iii) of this section. These requirements also apply to the sorbent injection equipment of a dry scrubber.

* * * * *

(10) *Bag leak detection monitoring requirements.* If you elect to use a fabric filter bag leak detection system to comply with the requirements of this subpart, you must install, calibrate, maintain, and continuously operate a BLDS as specified in paragraphs (m)(10)(i) through (viii) of this section.

(i) You must install and operate a BLDS for each exhaust stack of the fabric filter.

(ii) Each BLDS must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations and in accordance with the guidance provided in EPA–454/R–98–015, September 1997.

(iii) The BLDS must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 or fewer milligrams per actual cubic meter.

(iv) The BLDS sensor must provide output of relative or absolute PM loadings.

(v) The BLDS must be equipped with a device to continuously record the output signal from the sensor.

(vi) The BLDS must be equipped with an alarm system that will alert an operator automatically when an increase in relative PM emissions over a preset level is detected. The alarm must be located such that the alert is detected and recognized easily by an operator.

(vii) For positive pressure fabric filter systems that do not duct all compartments of cells to a common stack, a BLDS must be installed in each baghouse compartment or cell.

* * * * *

(11) * * *

(v) Cleaning the BLDS probe or otherwise repairing the BLDS; or

* * * * *

(n) *Continuous Flow Rate Monitoring System.* You must install, operate, calibrate, and maintain instruments, according to the requirements in

paragraphs (n)(1) through (10) of this section, for continuously measuring and recording the stack gas flow rate to allow determination of the pollutant mass emissions rate to the atmosphere from sources subject to an emissions limitation that has a pounds per ton of clinker unit.

* * * * *

(o) *Alternate Monitoring Requirements Approval.* You may submit an application to the Administrator for approval of alternate monitoring requirements to demonstrate compliance with the emission standards of this subpart, except for emission standards for THC, subject to the provisions of paragraphs (o)(1) through (6) of this section.

* * * * *

(p) *Development and Submittal (Upon Request) of Monitoring Plans.* If you demonstrate compliance with any applicable emissions limit through performance stack testing or other emissions monitoring, you must develop a site-specific monitoring plan according to the requirements in paragraphs (p)(1) through (4) of this section. This requirement also applies to you if you petition the EPA Administrator for alternative monitoring parameters under paragraph (o) of this section and § 63.8(f). If you use a BLDS, you must also meet the requirements specified in paragraph (p)(5) of this section.

(1) For each CMS required in this section, you must develop, and submit to the permitting authority for approval upon request, a site-specific monitoring plan that addresses paragraphs (p)(1)(i) through (iii) of this section. You must submit this site-specific monitoring plan, if requested, at least 30 days before your initial performance evaluation of your CMS.

* * * * *

(2) In your site-specific monitoring plan, you must also address paragraphs (p)(2)(i) through (iii) of this section.

* * * * *

(5) *BLDS Monitoring Plan.* Each monitoring plan must describe the items in paragraphs (p)(5)(i) through (v) of this section. At a minimum, you must retain records related to the site-specific monitoring plan and information discussed in paragraphs (m)(1) through (4), (m)(10) and (11) of this section for a period of 5 years, with at least the first 2 years on-site;

* * * * *

■ 19. Section 63.1351 is amended by revising paragraphs (c) and (d) and adding paragraph (e) to read as follows:

§ 63.1351 Compliance dates.

* * * * *

(c) The compliance date for existing sources for all the requirements that became effective on February 12, 2013, except for the open clinker pile requirements will be September 9, 2015.

(d) The compliance date for new sources is February 12, 2013, or startup, whichever is later.

(e) The compliance date for existing sources with the requirements for open clinker storage piles in § 63.1343(c) is February 12, 2014.

■ 20. Section 63.1352 is amended by revising paragraph (b) to read as follows:

§ 63.1352 Additional test methods.

* * * * *

(b) Owners or operators conducting tests to determine the rates of emission of specific organic HAP from raw material dryers, and kilns at Portland cement manufacturing facilities, solely for use in applicability determinations under § 63.1340 of this subpart are permitted to use Method 320 of appendix A to this part, or Method 18 of appendix A to part 60 of this chapter.

■ 21. Section 63.1353 is amended by adding paragraph (b)(6) to read as follows:

§ 63.1353 Notification Requirements.

* * * * *

(b) * * *

(6) Within 48 hours of an exceedance that triggers retesting to establish compliance and new operating limits, notify the appropriate permitting agency of the planned performance tests. The notification requirements of §§ 63.7(b) and 63.9(e) do not apply to retesting required for exceedances under this subpart.

■ 22. Section 63.1354 is amended by:

■ a. Removing and reserving paragraphs (b)(4) and (5);

■ b. Revising paragraph (b)(9)(vi);

■ c. Adding paragraph (b)(9)(vii); and

■ d. Revising paragraph (c).

The revisions read as follows:

§ 63.1354 Reporting requirements.

* * * * *

(b) * * *

(9) * * *

(vi) For each PM, HCl, Hg, and THC CEMS or Hg sorbent trap monitoring system, within 60 days after the reporting periods, you must submit reports to the EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through the EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*). You must use the appropriate electronic reporting form in CEDRI or provide an alternate electronic file consistent with the EPA's reporting form output format. For each reporting period, the reports must include all of the calculated 30-operating day rolling average values derived from the CEMS or Hg sorbent trap monitoring systems.

(vii) In response to each violation of an emissions standard or established operating parameter limit, the date, duration and description of each violation and the specific actions taken for each violation including inspections, corrective actions and repeat performance tests and the results of those actions.

* * * * *

(c) Reporting a failure to meet a standard due to a malfunction. For each failure to meet a standard or emissions limit caused by a malfunction at an affected source, you must report the failure in the semi-annual compliance report required by § 63.1354(b)(9). The report must contain the date, time and duration, and the cause of each event (including unknown cause, if applicable), and a sum of the number of events in the reporting period. The report must list for each event the affected source or equipment, an estimate of the volume of each regulated pollutant emitted over the emission limit for which the source failed to meet a standard, and a description of the method used to estimate the emissions. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.1348(d), including actions taken to correct a malfunction.

■ 23. Section 63.1355 is amended by revising paragraphs (f) and (g)(1) and adding paragraph (h) to read as follows:

§ 63.1355 Recordkeeping Requirements.

* * * * *

(f) You must keep records of the date, time and duration of each startup or shutdown period for any affected source that is subject to a standard during startup or shutdown that differs from the standard applicable at other times, and the quantity of feed and fuel used during the startup or shutdown period.

(g)(1) You must keep records of the date, time and duration of each malfunction that causes an affected source to fail to meet an applicable standard; if there was also a monitoring malfunction, the date, time and duration of the monitoring malfunction; the record must list the affected source or equipment, an estimate of the volume of each regulated pollutant emitted over the standard for which the source failed to meet a standard, and a description of

the method used to estimate the emissions.

* * * * *

(h) For each exceedance from an emissions standard or established operating parameter limit, you must keep records of the date, duration and description of each exceedance and the specific actions taken for each exceedance including inspections, corrective actions and repeat performance tests and the results of those actions.

■ 24. Section 63.1356 is revised to read as follows:

§ 63.1356 Sources with multiple emissions limit or monitoring requirements.

If an affected facility subject to this subpart has a different emissions limit or requirement for the same pollutant under another regulation in title 40 of this chapter, the owner or operator of the affected facility must comply with the most stringent emissions limit or requirement and is exempt from the less stringent requirement.

■ 25. Section 63.1357 is amended by revising paragraphs (a)(1) and (2) to read as follows:

§ 63.1357 Temporary, conditioned exemption from particulate matter and opacity standards.

(a) * * *

(1) Any PM and opacity standards of part 60 or part 63 of this chapter that are applicable to cement kilns and clinker coolers.

(2) Any permit or other emissions or operating parameter or other limitation on workplace practices that are applicable to cement kilns and clinker coolers to ensure compliance with any PM and opacity standards of this part or part 60 of this chapter.

* * * * *

■ 26. Table 3 to Subpart LLL of Part 63 is revised by revising the entries for 63.6(e)(3), 63.7(b), and 63.9(e) to read as follows:

TABLE 3—TO SUBPART LLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Citation	Requirement	Applies to Subpart LLL	Explanation
*	*	*	*
63.6(e)(3)	Startup, Shutdown Malfunction Plan	No	Your operations and maintenance plan must address periods of startup and shutdown. See § 63.1347(a)(1).
*	*	*	*
63.7(b)	Notification period	Yes	Except for repeat performance test caused by an exceedance. See § 63.1353(b)(6)
*	*	*	*
63.9(e)	Notification of performance test	Yes	Except for repeat performance test caused by an exceedance. See § 63.1353(b)(6)
*	*	*	*

[FR Doc. 2012–31633 Filed 2–11–13; 8:45 am]

BILLING CODE 6560–50–P

Reader Aids

Federal Register

Vol. 78, No. 29

Tuesday, February 12, 2013

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, FEBRUARY

7255–7640 1
7641–7992 4
7993–8344 5
8345–8956 6
8957–9306 7
9307–9574 8
9575–9776 11
9777–10054 12

CFR PARTS AFFECTED DURING FEBRUARY

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.

2 CFR

Proposed Rules:
Ch. I 7282
Ch. II 7282

3 CFR

Proclamations:
8929 8345
8930 8347
8931 8349
8932 8951
Administrative Orders:
Memorandums:
Memorandum of January 29, 2013 9573
Memorandum of January 30, 2013 7989
Memorandum of January 31, 2013 8351
Memorandum of February 1, 2013 8953
Notices:
Notice of November 27, 2012 (Correction) 7255
Notice of February 4, 2013 (see EO of 2/7/2006) 8955
Presidential Determinations:
No. 2013–4 of January 29, 2013 9571

6 CFR

Proposed Rules:
115 8987

7 CFR

319 8957
966 9307
985 9575
1738 8353
Proposed Rules:
6 8434
27 9330
205 8040
210 9530
220 9530
318 8987
319 .....8435, 9851
361 9851
920 9331
948 9629
959 8047
1000 9248
1206 8441
1710 8444

9 CFR

72 8960
93 9577

10 CFR

110 8360
Proposed Rules:
72 8050
430 .....7681, 7940, 8992, 9631
431 .....7296, 7304, 7306, 8998

12 CFR

1808 8296
Proposed Rules:
252 9633
1215 9336

14 CFR

25 8961
39 .....7257, 7259, 7261, 7262, 7641, 7642, 7645, 7647, 9309, 9581, 9777, 9779, 9781, 9783, 9785, 9787, 9789, 9792, 9793, 9796, 9798, 9800
71 .....7993, 8962
95 9583
97 .....7650, 7652
117 8361
119 8361
121 8361
1212 8963
Proposed Rules:
39 .....7308, 7312, 8052, 8054, 8058, 8446, 8999, 9001, 9003, 9005, 9007, 9341, 9346, 9634, 9636, 9798, 9800
71 9009
121 9865
135 9865

16 CFR

305 8362

17 CFR

230 7654
240 7654
260 7654

18 CFR

157 8389
Proposed Rules:
35 7524

20 CFR

404 7659
Proposed Rules:
404 .....7695, 7968
416 7968

21 CFR

1 7994
Proposed Rules:
201 8446
314 8446
601 8446
872 9010

886 9349

23 CFR

771 8964

24 CFR

242 8330

Proposed Rules:

200 8448
203 8448

25 CFR

Proposed Rules:

226 9015

26 CFR

1 ....7264, 7997, 9802

Proposed Rules:

1 ....7314, 8060
54 8456
301 8062

27 CFR

9 ....8016, 8018

28 CFR

Proposed Rules:

571 9353

29 CFR

401 8022
402 8022
403 8022
404 8022
405 8022
406 8022
408 8022
409 8022
417 8022
451 8022
452 8022
453 8022
457 8022
458 8022
459 8022
825 8834
1910 9311
1915 9311
1926 ....8985, 9311
1986 8390
4022 8985

Proposed Rules:

2590 8456

30 CFR

942 9803
944 9807

Proposed Rules:

700 8822
875 8822
879 8822
884 8822
885 8822

33 CFR

100 7663
110 9811
117 ....9587, 9588, 9814
165 ....7265, 7665, 7670, 8027

Proposed Rules:

100 ....7331, 9866
105 7334
165 ....7336, 8063, 9640
401 8476

34 CFR

Subtitle A 9815

Proposed Rules:

Ch. III 9869

38 CFR

1 9589

39 CFR

501 8407

40 CFR

51 9823
52 ....7672, 8706, 9315, 9593, 9596, 9828
60 ....9112, 10006
63 ....7488, 10006
174 9317
180 ....7266, 7275, 8407, 8410, 9322
241 9112

Proposed Rules:

49 8274
50 8066
51 7702
52 ....7340, 7703, 7705, 8076, 8083, 8478, 8485, 9016, 9355, 9648, 9650, 9651
80 9282
81 ....7340, 7705

42 CFR

71 ....7674, 9828
402 9458
403 9458

Proposed Rules:

73 9355
416 9216
442 9216
482 9216
483 9216
485 9216
486 9216
488 9216
491 9216
493 9216

44 CFR

65 8416
67 ....9598, 9600, 9831

Proposed Rules:

67 8089

45 CFR

1611 7679

Proposed Rules:

147 8456
148 8456
155 7348
156 ....7348, 8456
1171 9654

47 CFR

1 8230
2 8230
25 ....8230, 8417, 9602, 9605
27 ....8230, 9605
64 ....8030, 8032
101 ....7278, 8230

Proposed Rules:

54 9020
64 8090

49 CFR

172 8431
209 9845
571 9623
622 8964

Proposed Rules:

1247 7718
1248 7718

50 CFR

17 8746
622 ....7279, 9848
648 9849
665 9327
679 ....7280, 8985, 9327, 9328, 9849

Proposed Rules:

17 ....7864, 7890, 7908, 8096, 9876
223 9024
300 9660
660 7371
665 7385

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 325/P.L. 113–3

No Budget, No Pay Act of 2013 (Feb. 4, 2013; 127 Stat. 51)

Last List January 31, 2013

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.