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Contents

Federal Register

Vol. 78, No. 42

Monday, March 4, 2013

Agriculture Department
See Farm Service Agency
See Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14071
Appointment of Members to the National Agricultural Research, Extension, Education, and Economics Advisory Board, 14071–14072

Alcohol and Tobacco Tax and Trade Bureau
PROPOSED RULES
Establishment of the Moon Mountain District Sonoma County Viticultural Area, 14046–14053

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Identification of Explosive Materials, 14120–14121
Police Check Inquiry and Pre-Screening Qualifications Certification, 14121
Statement of Process – Marking of Plastic Explosives for the Purpose of Detection, 14120

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14092–14095

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Temporary Assistance for Needy Families Quarterly Financial Report, 14095

Coast Guard
PROPOSED RULES
Vessel Documentation Renewal Fees, 14053–14060

Commerce Department
See Economic Development Administration
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Consumer Product Safety Commission
NOTICES
Settlement Agreements:
Kolcraft Enterprises, Inc., 14080–14082

Defense Department
NOTICES
Renewal of Department of Defense Federal Advisory Committees, 14082–14083

Economic Development Administration
NOTICES
Petitions by Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance, 14073–14074

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Direct Loan, FFEL, Perkins and TEACH Grant Total and Permanent Disability Discharge Forms, 14083–14084
Information Requests to Gather Technical Expertise:
Language Instruction Educational Programs; Native American Students, 14084–14087

Employment and Training Administration
NOTICES
Solicitations for Grant Applications:
Strategies Targeting Characteristics Common to Female Ex-Offenders, 14121–14122

Energy Department
PROPOSED RULES
Energy Efficiency Program for Commercial and Industrial Equipment:
Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps; Framework Document Availability and Meeting; Correction, 14024
NOTICES
Meetings:
DOE/NSF High Energy Physics Advisory Panel; Correction, 14087
Environmental Management Site-Specific Advisory Board, Savannah River Site, 14088

Environmental Protection Agency
RULES
Air Quality Implementation Plans; Approvals and Promulgations:
Delaware; 2002 Base Year Emissions Inventory for the Delaware Portion of the Philadelphia Nonattainment Area, etc., 14020–14022
NOTICES
Meetings:
Environmental Financial Advisory Board, 14088
Privacy Act; Systems of Records, 14088–14090
Requests for Nominations:
National Environmental Education Advisory Council, 14090–14091

Equal Employment Opportunity Commission
NOTICES
Public Availability of FY 2012 Service Contract Inventory, 14091

Farm Service Agency
RULES
Guaranteed Farm Loans; Maximum Interest Rates, 13999–14005

Federal Aviation Administration
RULES
Special Conditions:
Embraer S.A., Model EMB–550 Airplanes; Electrical/Electronic Equipment Bay Fire Detection and Smoke Penetration, 14007–14009

Embraer S.A., Model EMB–550 Airplanes; Flight Envelope Protection: Pitch and Roll Limiting Functions, 14005–14007
Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures:
Miscellaneous Amendments, 14009–14012
PROPOSED RULES
Airworthiness Directives:
Airbus Airplanes, 14029–14031
Class D Airspace; Amendments:
El Monte, CA, 14031–14032
Class E Airspace; Establishment:
Cherokee, WY, 14032–14034
NOTICES
Meetings:
RTCA Program Management Committee, 14151–14152

Federal Communications Commission
PROPOSED RULES
Television Broadcasting Services:
Seaford, DE, and Dover, DE, 14060
NOTICES
Meetings; Sunshine Act, 14091

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Foreign Banks, 14091–14092

Federal Railroad Administration
NOTICES
Intent to Grant Buy America Waiver to Illinois Department of Transportation, etc., 14152–14153

Federal Reserve System
PROPOSED RULES
Financial Market Utilities, 14024–14029

Fish and Wildlife Service
RULES
Endangered and Threatened Wildlife and Plants:
Reinstatement of Removal of the Virginia Northern Flying Squirrel from List of Endangered and Threatened Wildlife, 14022–14023
PROPOSED RULES
Migratory Bird Hunting;
Nontoxic Shot for Use in Waterfowl Hunting, 14060–14069
NOTICES
Emergency Issuance of Endangered Species Permit, 14110–14111
Environmental Assessments; Availability, etc.:
Lesser Prairie Chicken, OK; Final Candidate Conservation Agreement with Assurances, 14111–14114

Food and Drug Administration
RULES
Medical Devices:
Exemptions from Premarket Notifications; Class II Devices; Powered Patient Transport, 14015–14017
Exemptions from Premarket Notifications; Class II Devices; Wheelchair Elevator, 14013–14015
Use of Materials Derived from Cattle in Human Food and Cosmetics, 14012–14013
NOTICES
Determinations that Products were Not Withdrawn from Sale for Reasons of Safety or Effectiveness:
GEREF (Sermorelin Acetate) Injection, 0.5 Milligrams Base/Vial and 1.0 Milligrams Base/Vial, and GEREF (Sermorelin Acetate) Injection, 0.05 Milligrams Base/Amp, 14095–14096
Guidance for Industry and Staff; Availability:
Pulse Oximeters; Premarket Notification Submissions, 14097

Foreign-Trade Zones Board
NOTICES
Production Activities:
Southern Lithoplate, Inc., Foreign-Trade Zone 189, Kent/Ottawa/Muskegon Counties, MI, 14074

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Trestle Forest Health Project, Eldorado National Forest, El Dorado County, CA, 14072–14073

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Homeland Security Department
See Coast Guard
NOTICES
Meetings:
Homeland Security Academic Advisory Council, 14102–14103
Homeland Security Science and Technology Advisory Committee, 14101–14102
Requests for Information:
Planned Biotechnology Development Module, National Bio and Agro-Defense Facility; Public Workshop, 14103–14106

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Enterprise Income Verification Systems – Debts Owed to Public Housing Agencies and Terminations, 14106–14107
Funding Awards:
Housing Opportunities for Persons with AIDS Program for Fiscal Year 2011, 14107–14108
Housing Opportunities for Persons with AIDS Program For Fiscal Year 2012, 14109–14110
Section 4 Capacity Building for Community Development and Affordable Housing Program Fiscal Year 2012, 14110

Indian Affairs Bureau
RULES
Courts of Indian Offenses, 14017–14020

Industry and Security Bureau
NOTICES
Meetings:
Regulations and Procedures Technical Advisory Committee, 14074–14075

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Ocean Energy Management Bureau
See Reclamation Bureau

Internal Revenue Service
PROPOSED RULES
Health Insurance Providers Fee, 14034–14046

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Certain Steel Threaded Rod from the People's Republic of China, 14075
Orange Juice from Brazil, 14075–14076

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Lodgings of Proposed Consent Decrees under CERCLA, 14119

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Applications:
Coal Exploration License Application WYW181224, Campbell County, WY, 14115
Coal Exploration License Application WYW181233, Sweetwater County, WY, 14114–14115
Coal Exploration License Application WYW181234, Sweetwater County, WY, 14116
Coal Exploration License Application WYW181235, Sweetwater County, WY, 14114

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 14097–14099
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 14098–14099
National Cancer Institute, 14099–14100
National Institute of Allergy and Infectious Diseases, 14098
National Institute of Diabetes and Digestive and Kidney Diseases, 14098
National Institute of Nursing Research, 14098

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
Shrimp Fishery Off the Southern Atlantic States; Amendment 9, 14069–14070
NOTICES
Fisheries of the Exclusive Economic Zone Off Alaska:
Groundfish; Central Gulf of Alaska Rockfish Program, 14076–14078
Meetings:
Caribbean Fishery Management Council, 14078
Permits:
Endangered Species; File No. 17405, 14078–14079

Nuclear Regulatory Commission
NOTICES
Facility Operating and Combined Licenses:
Applications and Amendments Involving No Significant Hazards Considerations, 14126–14141

Occupational Safety and Health Administration
NOTICES
Revocations of Permanent Variances, 14122–14126

Ocean Energy Management Bureau
NOTICES
Oil and Gas Lease Sales:
Gulf of Mexico, Outer Continental Shelf, Eastern Planning Area Lease Sale 225 and 226, 14116–14117

Patent and Trademark Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Legal Processes, 14079–14080

Reclamation Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Yolo Bypass Salmonid Habitat Restoration and Fish Passage, CA; Scoping Meetings, 14117–14119

Research and Innovative Technology Administration
NOTICES
Meetings:
Advisory Council on Transportation Statistics, 14153–14154

Securities and Exchange Commission
NOTICES
FY 2012 Service Contract Inventory; Availability, 14141
Meetings; Sunshine Act, 14141
Self-Regulatory Organizations; Proposed Rule Changes:
Municipal Securities Rulemaking Board, 14144–14148
NASDAQ OMX BX, Inc., 14141–14144

Small Business Administration
NOTICES
Disaster Declarations:
West Virginia, 14148–14149
Major Disaster Declarations:
Louisiana, 14149

State Department
NOTICES
2012 Fiscal Transparency Report, 14149–14151
Delegations of Authority, 14151
Department of State Performance Review Board Members, 14151

Substance Abuse and Mental Health Services Administration

NOTICES
Laboratories and Instrumented Initial Testing Facilities that Minimum Standards to Engage in Urine Drug Testing, 14100–14101

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See Research and Innovative Technology Administration

Treasury Department
See Alcohol and Tobacco Tax and Trade Bureau
See Internal Revenue Service
See United States Mint

United States Mint
NOTICES
Meetings:
Citizens Coinage Advisory Committee, 14154

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
761 13999
762 13999

10 CFR
Proposed Rules:
431 14024

12 CFR
Proposed Rules:
234 14024

14 CFR
25 (2 documents) 14005, 14007
97 (2 documents) 14009, 14010
Proposed Rules:
39 14029
71 (2 documents) 14031, 14032

21 CFR
189 14012
700 14012
890 (2 documents) 14013, 14015

25 CFR
11 14017

26 CFR
Proposed Rules:
57 14034

27 CFR
Proposed Rules:
9 14046

40 CFR
52 14020

46 CFR
Proposed Rules:
67 14053

47 CFR
Proposed Rules:
73 14060

50 CFR
17 14022
Proposed Rules:
20 14060
622 14069

Rules and Regulations

Federal Register
Vol. 78, No. 42
Monday, March 4, 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 AGRICULTURE

Farm Service Agency

7 CFR Parts 761 and 762

RIN 0560–AH66

Maximum Interest Rates on Guaranteed Farm Loans

AGENCY: Farm Service Agency, USDA.

ACTION: Interim rule.

SUMMARY: The Farm Service Agency (FSA) is issuing this interim rule amending the regulations that specify interest rates on guaranteed farm loans. This rule will tie the maximum interest rate that may be charged on FSA guaranteed farm loans to nationally published indices, specifically the 3-month London Interbank Offered Rate (LIBOR) or the 5-year Treasury note rate, unless the lender uses a formal written risk-based pricing practice for loans, in which case the rate must be at least one risk tier lower than the borrower would receive without the guarantee. These provisions are intended to increase clarity and specificity in the maximum rate requirements, while at the same time setting rates that will work in current credit market conditions.

DATES: *Effective Date:* May 3, 2013.

Comment Date: We will consider comments that we receive by June 3, 2013.

ADDRESSES: We invite you to submit comments on this interim rule. In your comment, please specify RIN 0560–AH66 and include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Director, Loan Making Division, the Farm Loan Program (FLP), FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 0522, Washington, DC 20250–0522.

Comments will be available for inspection online at *http://www.regulations.gov* and in the Office of the Director, Loan Making Division, FSA, USDA, 1400 Independence Avenue SW., Stop 0522, Washington, DC 20250–0522, between 8 a.m. and 4:30 p.m., except holidays.

FOR FURTHER INFORMATION CONTACT: Trent Rogers; telephone: (202) 720–3889. Persons with disabilities or who require alternative means for communications should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

FSA guaranteed loans provide credit to farmers whose financial risk exceeds a level acceptable to commercial lenders. Loans are made to assist those eligible farmers as specified in 7 CFR 762.120 who are not able to obtain conventional loans at reasonable rates and terms. FSA provides commercial lenders (for example, commercial banks, mutual savings banks, mortgage banks, Farm Credit System institutions, credit unions) with a guarantee for up to 95 percent of the loss of principal and interest on a guaranteed loan (see 7 CFR 762.129). In fiscal year 2010, FSA guaranteed over $3.3 billion farm ownership (FO) and operating loans (OL).

The FSA guarantee reduces the lender's risk of loss. FSA believes the borrower should receive some of the benefit of the reduction in the lender's credit cost in the form of a lower interest rate than the borrower would otherwise receive. Therefore, the FSA regulations for the guaranteed loan program limit the amount of interest that a lender may charge guaranteed loan customers. The existing regulations in 7 CFR 762.124(a)(3) tie the rate to that rate charged an ''average agricultural loan customer,'' as defined in 7 CFR 761.2. This rule would not change the core policy of limiting rates on guaranteed loans to allow the borrower to receive some of the benefit of the guarantee, but would make that policy clearer to implement by tying maximum interest rates to widely published indices. The specific maximum rates will also simplify compliance, as it will be easier to demonstrate that a rate was below the maximum on a specific date than demonstrate it was at or below the rate charged an average agricultural loan customer.

This interim rule follows a proposed rule on the same topic that was published on September 30, 2008 (73 FR 56754–56756). The proposed rule included provisions tying maximum rates to widely published indices. The proposed maximum ''spread'' between the indices and the maximum rates was based on FSA analysis of over 10 years of data on actual guaranteed loan rates and indices. Based on that data, most guaranteed loans made between 1999 and 2010 would have met the requirements in the proposed rule. This interim rule addresses comments made on the proposed rule; substantive changes were made to address the comments.

General Discussion of Comments and Substantive Changes Made in Response to Comments

In response to the proposed rule, FSA received 97 comments from individuals, organizations, banks, Farm Credit System lenders, lending associations, government agencies and FSA employees. Most comments supported the concept of more clear maximum interest rate requirements, but opposed the specifics of the proposed rule, although there was not a consensus on alternative provisions. Many commenters noted that the proposed interest rate benchmarks would not work in the unusual credit environment that was present in late 2008, when the proposed rule was published. Most comments strongly supported eliminating the term ''average agricultural loan customer,'' which was generally considered to be lacking in clarity and enforceability.

In balancing the need to clarify the regulations with the opportunity for public comment on how the amendments would function in more typical market conditions, FSA has decided to publish an interim rule with a 90 day period for additional public comment. The cost benefit analysis done for this rule, which updates the analysis done for the proposed rule, shows that more than 95 percent of guaranteed loans made in 2009 and 2010 would have met the requirements in this interim rule. We find that the substantive changes in this rule fully

address the issue raised by commenters regarding effective maximum rates in unusual market conditions. In response to the many comments received on the proposed rule stating that the proposed rates would not work in current credit market conditions, FSA has increased the maximum rates permitted in this rule, and will allow a further increase if the 3-month LIBOR falls below 2 percent.

This rule makes changes to FLP regulations in 7 CFR parts 761 and 762. The changes in 7 CFR part 761, ''General Program Administration,'' remove the definition for ''average agricultural loan customer'' and add a reference to the abbreviation, LIBOR. The changes in 7 CFR part 762, ''Guaranteed Farm Loans,'' clarify how maximum interest rates will be calculated for various types of guaranteed loans.

The substantive differences in this interim rule as compared to the provisions in the proposed rule are:

- The indices used in this rule are different from those proposed;
- This rule increases the allowable maximum rate ''spread'' above the indices by 300 basis points (3 percentage points) from what was proposed;
- This rule sets the maximum rate based on the term over which the rate is fixed, rather than purpose of loan (maximum rates are now the same for operating and ownership loans);
- The proposed provisions allowing FSA to set a different, unspecified, rate during extraordinary market conditions are replaced with more specific provisions allowing a 100 basis point higher ''spread'' if the 3-month LIBOR falls below 2 percent.

As discussed in more detail below, the proposed rule based maximum rate on the New York Prime and the 10-year Treasury note rate indices. This interim rule uses the 3-month LIBOR and the 5-year Treasury note rate as the indices. The proposed rule specified that the maximum rate allowed for guaranteed loans would be a 250 basis point (2.5 percentage points) spread above New York Prime for Operating loans (OL), and a 350 basis point (3.5 percentage points) spread above 10-year Treasury for Farm Ownership Loans (FO). This interim rule sets the maximum allowable spread at 650 basis points (6.5 percentage points) above 3-month LIBOR for variable rate loans and those fixed for less than five years, and 550 basis points (5.5 percentage points) above 5-year Treasury for loans fixed for five years or more. The rates are the same for FO and OL in this rule.

The proposed rule included a provision that the maximum interest rate limitations could be modified by FSA in times of extraordinary conditions. This interim rule specifies the extraordinary condition (3-month LIBOR falls below 2 percent) that will automatically trigger a specific 100 basis point increase in the allowable spread. If the 3-month LIBOR falls below 2 percent, the maximum allowable spreads will increase by 100 basis points (1 percentage points), to 750 basis points above the 3-month LIBOR for variable rate loans and 650 basis points above the 5-year Treasury note rate for loans fixed for terms of 5 or more years, regardless of the program type.

We are issuing this interim rule in an attempt to provide clarity to borrowers and lenders in this marketplace and to reduce regulatory uncertainty. We do not believe that this change will substantially alter the interest rates available to borrowers, nor is it our intention to do so. In order to ensure that we have selected the right maximum rates, and to ensure that there are no unintended consequences of this action, we will carefully monitor the implementation of this rule. If we receive comments indicating that there is a substantial negative effect on either borrowers or lenders, we will take those comments into account in determining whether to suspend implementation of this rule. We welcome comments on our approach.

Discussion of Comments

The following provides a discussion of the specific public comments received, and FSA's responses, including changes we are making to the regulations in response to the comments.

Comment: FSA should suspend or delay action on this regulation and reconsider it at a later time when credit markets are more stable.

Response: We are publishing this interim rule, with an additional 90 day comment period, rather than proceeding directly to final rule. This provides more opportunity for public comment, and more time for markets to stabilize, while at the same time providing needed clarity to the guaranteed loan program regulations.

Comment: FSA should withdraw its amendments due to the uncertainty and volatility in the current markets.

Response: As mentioned above, we are publishing this interim rule to provide more opportunity for public comment and more time for markets to stabilize.

Comment: FSA should publish an interim rule rather than a final rule because we would like to see how the options USDA implements actually work.

Response: FSA agrees and is issuing an interim rule.

Comment: FSA should let the market dictate what interest rate lenders charge guaranteed borrowers, rather than placing any limits on the rates. Guaranteed borrowers are inherently financially weaker than the lender's typical customer, and are more expensive to service. The guarantee does not reduce lender's risk of borrower default, and they should be permitted to price accordingly.

Response: It is not FSA's intent to set interest rates, but rather to establish broad guidelines. While FSA believes the guarantee reduces risk of loss to the lender, we recognize that a guaranteed borrower may still be financially weaker and more expensive to service than their typical customer. This interim rule should provide lenders enough flexibility to set loan rates based on market factors and to reflect a lender's cost, a borrower's risk, and loan characteristics. Therefore, no change is made to the rule in response to this comment.

Comment: Lenders should be able to base the rate on local market rates, not the maximums, if using the maximums would otherwise result in a denial of credit to the borrower.

Response: Lenders using risk-based pricing practices specified in 7 CFR 762.124(a) would not have to use the indexed rate maximum. This interim rule should enable other lenders sufficient flexibility to base rates on local conditions. Lenders will likely price loans based on their cost of funds or competition.

Comment: There should not be any limits on interest rates. We disagree with USDA's assertion that guaranteed loans automatically reduce lender costs. Lenders should be allowed to charge a rate that is reflective of local market conditions.

Response: Part of the intent of the program is for the borrower to receive the benefit of the reduction in the lender's credit cost in the form of a lower interest rate. The interim rule provides broad guidelines that will allow lenders to adjust accordingly.

Comment: The rule should not limit the rate of a variable rate loan throughout the life of the loan.

Response: It was not our intent for the rule to do so. The interest rate maximums in this rule will be applicable only at loan closing or restructuring, but then rates may

fluctuate according to the bank policy that applies to other, non-guaranteed loans, without being restricted by any maximums. We have clarified the provisions in this rule for variable rate loans to state that the rate maximum applies only at the time of loan closing or loan restructuring.

Comment: A national index would reduce lenders' ability to control profit margins.

Response: Under the revised rule lenders should have substantial flexibility in loan pricing and, therefore profit margins.

Comment: Rather than implementing the proposed interest rate maximums, the following language should be adopted: ''On the date of loan closing, the interest rate charged by the lender to a borrower with a Farm Service Agency guaranty shall not exceed the interest rate the lender charges a non-guarantee borrower of a similar type, term or loan purpose.''

Response: A requirement that rates not exceed the interest rate charged a non-guarantee borrower and provides the specific language for loan type, term, loan purpose, and specific date would provide no benefit to the guaranteed borrower. One of the purposes of the amendments is to ensure that borrowers receive some of the benefit from the reduced risk provided by the guarantee, in the form of a lower rate, not the same rate, than a similar non-guarantee borrower. Therefore, no change is made to the rule in response to this comment.

Comment: Eliminate ''average agricultural loan customer'' from the definitions. We do not have an average agricultural loan customer rate and it is difficult for lenders to apply this definition. The index and maximum spread is a reasonable and appropriate alternative to the ambiguous ''average agricultural loan customer.''

Response: As proposed, we have removed the term.

Comment: Don't remove the ''average agricultural loan customer'' definition. The existing regulations are clear and not vague and FSA's proposal to benchmark interest rates to published indices would add more complexity to the current FSA rules, and more compliance regulation for the small agricultural community banks.

Response: The ''average agricultural loan customer'' implies a flat-rate loan pricing policy through which all farm customers receive the same rate, which is considered inconsistent with current industry practices. We received many comments that the ''average agricultural loan customer'' term is ambiguous and makes it difficult for lenders to demonstrate compliance, and it is therefore removed. The new rate maximums, which are clearly specified and based on widely published indices, are not complex; there are only two maximum rates in effect at any time, which should simplify compliance for all types of lenders.

Comment: We support the basic concept to allow lenders to use an internal risk-based pricing practice. However, there are concerns with the way the provisions in the proposed rule are specified. The term ''moderate risk borrower'' is still too vague and should not be used.

Response: In response to this comment, this rule removes the references to a ''moderate risk borrower'' that were in the proposed rule and instead refers specifically to a lower risk tier than the borrower would otherwise qualify for.

Comment: Provisions under the proposed rule do not allow a risk-based pricing practice to work effectively within the community banking system.

Response: It is not the intent of FSA to require banks to use risk-based pricing practices in order to participate in the guaranteed loan program. Any lender without a written risk-based pricing practice may use any other pricing practices (for example, cost-plus, flat-rate, or market based) to price guaranteed loans, provided the rates do not exceed the required maximums.

Comment: FSA has not established a clear limit for the interest rate that can be charged to a moderate risk borrower, and by not establishing a clear limit for lenders using risk-based pricing practices, there may be wide variances among lenders.

Response: In response to this comment, this rule removes all references to a moderate risk borrower that were in the proposed rule and instead refers specifically to a lower risk tier than the borrower would otherwise qualify for.

Comment: The proposed middle risk tier does not represent a typical or moderate strength customer. One risk-based pricing practice used within our institution uses a 14-tier scale, but tier 7 is not ''moderate risk.'' In general, the first 9 tiers map to a Fully Acceptable loan, a 9 would be low Acceptable, 10 would be Special Mention, 11 and 12 would be Substandard and the remaining ratings map to Doubtful and Loss. Under this type of risk-based pricing practice, the moderate risk loan would likely be rated 10 or 11, not the middle tier of 7 and 8 as the FSA proposed rule specified. As an alternative, we suggest that for loans protected by a guarantee, the lender assign it a risk tier at least one tier lower (representing lower risk and therefore a lower interest rate) than that borrower would receive without a guarantee.

Response: We agree that the suggested alternative of specifying one lower risk tier is a straightforward and objective methodology which accommodates lender pricing practices better than specifying that the middle tier be used. This alternative would satisfy the objective of providing benefit to the borrower with a lower interest rate, and is a clear and unambiguous requirement for lenders. In response to this and other similar comments, this rule removes all references to a moderate risk or middle tier borrower that were in the proposed rule and instead refers specifically to a risk tier one tier lower than the borrower would otherwise qualify for.

Comment: The term ''model'' implies a much more sophisticated process than is typically used to price loans. A common understanding of a ''model'' would include pricing resulting from an economic capital model that is a pure form of a risk-based pricing, taking into consideration different levels of risk and the probability of default, exposure to default, and loss given default. That is more detailed analysis than is typically performed to develop loan pricing by agricultural lenders and we suggest that FSA therefore refer to it as a pricing ''practice'' rather than a pricing ''model.''

Response: It is our intention to follow lender practices where practical. Therefore, this suggestion is adopted in this interim rule; references to ''pricing models'' in the proposed rule have been replaced with references to ''pricing practices.'' Additional guidance and examples will be published in FSA internal handbooks of how a risk-based pricing practice may be used to determine the maximum loan rate.

Comment: Our risk-based pricing practice uses detailed actuarial data. FSA should set the policy regarding risk rating without examining or challenging the actuarial detail.

Response: If a risk-based pricing practice is used, the lender must provide FSA with information about its risk-based pricing practices if requested by FSA. That does not necessarily mean that FSA will challenge those practices. The purpose of requesting the information is so that FSA could determine compliance in the context of the lender's specific risk-based pricing practice, rather than to challenge the actuarial detail.

Comment: A bank's pricing matrix is part of an institution's business model and therefore proprietary. FSA should state clearly in the regulation, not just the preamble, that a lender's pricing

matrix is not discoverable via a Freedom of Information Act (FOIA) request, and is not otherwise available for public inspection.

Response: FSA understands the concern, but does not feel that a specific provision in the regulation is needed or appropriate. FSA does not intend to release a lender's risk-based pricing practice to any non-government entity or party as a result of a FOIA request. The lender's risk-based pricing practice would be protected under the Privacy Act of 1974 following FSA's normal procedures.

Comment: The proposed interest rate limits and indices are not appropriate and will not allow us to extend credit under current market conditions.

Response: FSA proposed new interest rate limits based on widely recognized indices, with the intent of providing simple, clear, straightforward limits that would not hamper lender participation in the program. As stated in the Supplementary Information section of the proposed rule, the proposed indices and rates were based on a detailed analysis of 10 years of interest rate data. The proposed rule's comment period occurred during a period of historic financial market disruption. In response to this comment and similar comments, we are publishing this interim rule with different indices and spreads resulting in higher interest rate maximums than in the proposed rule, with an additional provision for an even wider spread in market conditions such as those that existed from 2009 to 2010. As part of the cost benefit analysis for this rule, we determined that more than 95 percent of guaranteed loans made in 2009 and 2010 by lenders of all sizes would meet the requirements in this interim rule.

Comment: The selected indices are not the most appropriate ones. Alternatives include the Farmer Mac Cost of Funds Index (COFI), 3-Month COFI, 1-Year COFI, 5-Year Reset COFI, 10-Year Reset COFI, 15-Year Reset COFI, Federal Farm Credit Banks (FFCB) Funding Corporation Cost Index, LIBOR, LIBOR Swap Curve, Federal Home Loan Bank (FHLB), 5-year Treasury note rate, and 10-year Constant Maturities Treasury (CMT). Farmer Mac II COFI is particularly appropriate because of the availability to sell loans into the secondary market and it is nationally recognized and familiar to FSA.

Response: Our analysis for the proposed rule showed that the Wall Street Journal Prime Rate and 10 year Treasury rate most closely tracked to guaranteed loan rates, using 10 years of data from 1999 to 2008. However, given the input from commenters, we have done additional analysis using more recent 2009 and 2010 data. Based on the comments, FSA reviewed lending practices and the various indices and determined that the 3-month LIBOR was the most reflective of lender funding costs for variable rate loans or fixed rate loans with rates fixed for terms of less than 5 years regardless of program type. Similarly, the 5-year Treasury note rate was the most reflective for loans with rates fixed for 5 years or more. The use of these commonly used indices should not restrict the ability of lenders to sell loans into the secondary market. We also conducted an analysis, including a comparison to our proposed rule, to determine an appropriate maximum spread over these indices in a normal interest rate environment. Based on this analysis, we determined that for variable rate loans and loans with rates fixed for less than 5 years, the maximum rate will be 650 basis points (6.5 percentage points) over the 3-month LIBOR, regardless of program type. Loans with rates fixed for 5 years or longer will be limited to no more than 550 basis points (5.5 percentage points) over the 5-year Treasury note rate, regardless of program type. The spread may increase by 100 basis points when the 3-month LIBOR is below 2 percent, as it is now. These spreads result in higher maximum rates than those in the proposed rule. As noted earlier, more than 95 percent of guaranteed loans made in 2009 and 2010 by lenders of all sizes would meet the requirements in this rule.

Comment: With the rates in the proposed rule, lenders would be prevented from making fixed rate loans to their farm customers, regardless of term or type, due to the fluctuation in yield curves and the availability to book or sell loans into the secondary market. With variable rate loans, at some time in the future, the effective interest rate, if based on the Treasury note rate or New York Prime rate, could increase, which would increase the payment amount and could place the borrower into a negative cashflow.

Response: As noted earlier, this interim rule includes higher maximum rates for both fixed and variable rate loans than were in the proposed rule, in response to comments and continued atypical credit market conditions. It was not the intent to require that variable rate loans be pegged to the indices for the duration of the loan. This rule clarifies that variable rate loans must have an initial rate below a certain maximum at the time the loan is made or restructured, but that the rate can vary over the term of the loan. As with all variable rate loans, guaranteed or not, the rate may rise or fall in the future.

Comment: The 10-year Treasury note rate, or any single rate, would eliminate most of the available long term fixed financing, particularly for operating loans.

Response: The interim rule uses the 5-year Treasury note rate as the index for loans with rates fixed for five years or greater, and permits rates up to 5.5 percentage points greater than the index. For example, if the 5-year Treasury note rate is 2.5 percent, lenders may charge up to 8 percent on a guaranteed loan fixed for a term of 5 or more years. Lenders that use risk-based pricing practices do not have to use the indexed maximum rate, they may provide guaranteed loans at a rate that is at least one risk tier lower than the borrower would otherwise qualify for. This offers some flexibility for lenders who do not feel that the specified maximum rate fits their needs.

Comment: The rule does not include provisions to ensure that interest rate adjustments made after loan origination on variable rate loans are reasonable.

Response: Variable rates can fluctuate according to the bank's internal practices for similar, non-guaranteed loans and this rule specifies the lender must provide FSA with these rate adjustment policies, if requested. Our objective is to follow standard lender practices when practical and we have determined that this is an adequate control and will result in rates that are similar to those charged to other customers without the FSA guarantee.

Comment: The rates or the indices used should be tied to the lenders' cost of funds rather than historical data.

Response: The decision to use the 3-month LIBOR and 5-year Treasury rates as indices in the interim rule was that they more closely reflected a lenders' cost of funds. As discussed later, the cost benefit analysis explains that these indices did closely track rates on guaranteed loans charged by lenders' over the 1999 through 2010 time period.

Comment: If maximum spreads are included in the regulations, banks should be allowed to raise the spreads 100 basis points if necessary to extend credit. This would allow lenders to react as necessary to unusual financial marketplace disruptions such as are now being witnessed.

Response: That change has been made in this rule. If the 3-month LIBOR is below 2 percent, the maximum spreads are now 100 basis points higher than is permitted under more normal market conditions.

Comment: FSA should consider using LIBOR or LIBOR swap curve index for

loans beyond short term variable and increase the spread to 400 basis points.

Response: FSA changed the rule, to add the LIBOR index and to increase the allowable spread for loans with rates fixed for less than 5 years.

Comment: The spreads used to determine maximum rates should be larger.

Response: FSA changed the rule in response to this comment. As a result of changing the indices and increasing spreads, the maximum rates in this interim rule averaged 200 basis points higher than in the proposed rule (193 basis points for loans fixed for less than 5 years; 225 basis points for loans fixed for 5 or more years) over the 1999 through 2010 period.

Comment: There should not be any type of ceiling for interest rates because if interest rates were to rise, the interest rate compression with an interest rate ceiling could lead to lender inability to use this program.

Response: There is no fixed ceiling specified in this rule; the maximum rate ''floats'' with the indices. If interest rates rise, the maximum rate rises. For example, if the 3-month LIBOR rises from 3 percent to 4 percent, the maximum allowable rate on a guaranteed variable rate loan as specified in this rule rises from 9.5 percent to 10.5 percent.

Comment: Lenders typically charge less than the proposed maximum rates. Lenders would raise their rates to match these maximums, resulting in no benefit to the guaranteed loan borrower from the reduced risk of loss with a guarantee.

Response: Competition should prevent lenders from raising their rates to match the maximum rate if that maximum is higher than the market rate. In nearly all regions of the country, FSA guarantees represent only a small overall market share (4 percent nationwide), and would be expected to have little influence on market rates. Therefore, it would be expected that guaranteed lenders who systemically attempt to price above the market rate would face substantive competitive pressure.

Comment: The proposed indices and spreads are a good idea, as it is difficult to determine what the average farm customer receives. The New York prime rate plus 3 percent is reasonable for larger and more solid OLs, however loans to higher risk borrowers requesting loans of $50,000 or less should have a spread up to New York Prime rate plus 4 percent. The maximums should be the same for all FOs, regardless of size.

Response: This interim rule allows up to 650 basis points above the index for variable rate loans or fixed rate loans with rates fixed for less than 5 years and 550 basis points above the index for loans fixed for more than 5 years, regardless of size or purpose (FO vs. OL) of loan. Consequently, the maximum rates in this rule are 200 basis points higher than they would have been in the proposed rule. The size and purpose of loan are not used to determine which maximum rate applies, in part because FSA wanted to make the regulations clear and simple to implement. Since maximum rates are based on the term over which the rate is fixed, a shorter term FO could have a different rate than a longer term FO.

Comment: If FSA imposes maximum spreads over the proposed indices, lenders should be able to set a ''floor'' in times of unusual financial market disruptions, in order for lenders to cover cost of lending and institutions operating expenses. The floor should be between 5 percent to 8 percent. Without a floor, lenders may not be able to extend credit to farmers in times of very low rates.

Response: Lenders may set a floor (minimum rate), so long as it is at or below the maximum rates set in this rule, but lenders are not required by this rule to set such a floor. This rule addresses the issue of appropriate spreads in times of unusual market conditions by allowing higher maximum rates above the indices (650 basis points for variable rate loans and 750 basis points for fixed rate loans) if the 3-month LIBOR is below 2 percent. This is considered less arbitrary than allowing lender to set ''floors'' during unusual financial times. (If the 3-month LIBOR were literally zero, that would allow maximum rates of 6.5 percent and 7.5 percent, which is within the range suggested by this comment.) This provision allows lenders to charge less than that maximum. FSA is concerned that a mandatory ''floor'' provision which prohibited lenders from charging interest rates below a certain minimum rate could discourage borrowers from using FSA loans in times of extraordinary market conditions, particularly if the floor was above market rates. FSA did not include a mandatory floor in the interim rule. Lenders are free to set any floor they want.

Comment: Instead of the provisions for moderate risk borrowers, interest rates should be based on a point system like the one used by the Small Business Administration (SBA).

Response: It is not clear what regulatory alternative is suggested with this comment. If this comment refers to SBA loan regulations that provide different loan rate maximums based on the size, purpose, and type of the loan, the goal in revising the FLP regulations was to make them as clear and simple to implement as possible. We feel that the simple structure of only two maximum levels, independent of the size or purpose of the loan, serves that goal.

Executive Orders 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as significant under Executive Order 12866, ''Regulatory Planning and Review,'' and has reviewed this rule. A summary of the cost benefit analysis is provided below and is available at *http://www.regulations.gov* and from the contact information listed above.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Summary of Costs and Benefits

In the cost benefit analysis, rates charged on FSA guarantees over the 1999 through 2010 period were

analyzed and compared with different indices. While the analysis indicated a substantial variability in rates charged on guaranteed loans, rates were generally consistent with similar purpose unguaranteed farm loans made at the same time by commercial banks. It was determined that if the interim rule had been in effect from 1999 through 2010, over 95 percent of the guaranteed loans would have been under the maximum. While lower thresholds were considered, it was determined that these could be disruptive, as lenders might be inclined to make fewer guaranteed loans. That could result in an increase in demand for FSA direct loans, which are more costly to the Federal government.

While most lenders and borrowers will benefit from the changes in this interim rule, a few farmers may be unable to obtain guaranteed loans and may turn to direct loans for capital. Since direct programs as more expensive to administer, this would impose a slight cost on taxpayers ($1 to $5 million). These costs must be considered in light of expected benefits, many of which are intangible. Elimination of the unclear ''average agricultural loan customer'' designation should benefit borrowers and lenders alike. Lenders with risk pricing procedures should find compliance easier. Other lenders will be free to use their existing loan pricing procedures, as long as the rates do not exceed the maximum. While implementation of absolute maximum rates could result in some farmers not being able to obtain guaranteed loans, our analysis suggests that this number would be very small. Also, guaranteed loans which lenders consider so risky that they require rates of 100 or more basis points above the maximum should probably be made as direct loans. As a direct loan, the easier terms would enable the borrower to have a greater chance of success.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless FSA certifies that the rule will not have a significant economic impact on a substantial number of small entities. FSA has determined that this rule will not have a significant impact on a substantial number of small entities for the reasons explained below. Consequently, FSA has not prepared a regulatory flexibility analysis.

This rule is not expected to change the ability of applicants, borrowers, or lenders to participate in the FSA guaranteed loan program, and would not increase the costs of compliance with the program for entities of any size. All applicants or borrowers affected by this rule are small entities. Many lenders are considered small entities, using the SBA size standard of less $175 million in assets. However, changes in this rule will be applied to all affected entities equally, without regard to their size. No comments were received on the proposed rule regarding significant impact on a substantial number of small entities. Our analysis, which is explained in more detail in the cost benefit analysis, shows that less than 0.3 percent of guaranteed loans made by small banks in 2009 and 2010 had interest rates above those specified in this rule, so this rule will not have a significant effect on small lenders. By setting specific maximum rates, this rule will reduce compliance complexity for entities of all sizes.

Environmental Evaluation

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR parts 799 and 1940, subpart G). FSA concluded that this rule will not have a significant impact on the quality of the human environment either individually or cumulatively and therefore categorically excluded and not subject to environmental assessments or environmental impact statements in accordance with 7 CFR 1940.310(e)(3).

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. This rule neither provides Federal financial assistance nor direct Federal development; it does not provide either grants or cooperative agreements. Therefore this program is not subject to Executive Order 12372.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, ''Civil Justice Reform.'' This rule would not preempt State and or local laws, and regulations, or policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this interim rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The USDA Office of Tribal Relations has concluded that the policies contained in this rule do not have Tribal implications that preempt Tribal law. FSA continues to consult with Tribal officials to have a meaningful consultation and collaboration on the development and strengthening of FSA regulations.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates as defined by Title II of UMRA for State, local, or Tribal governments or for the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are:

10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Paperwork Reduction Act of 1995

The provisions in this interim rule require no revisions to the information collection requirements that were previously approved by OMB under control number 0560–0155.

E-Government Act Compliance

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

List of Subjects

7 CFR Part 761

Accounting, Loan programs—agriculture, Rural areas.

7 CFR Part 762

Agriculture, Credit, Loan programs—agriculture, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, this rule amends 7 CFR parts 761 and 762 as follows:

PART 761—GENERAL PROGRAM ADMINISTRATION

■ 1. The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 2. Amend § 761.2 as follows:
■ a. In paragraph (a), add, in alphabetical order, the abbreviation ''LIBOR'' to read as follows, and
■ b. In paragraph (b), remove the definition of ''average agricultural loan customer''.

§ 761.2 Abbreviations and definitions.

* * * * *

(a) * * *

LIBOR London Interbank Offered Rate.

* * * * *

PART 762—GUARANTEED FARM LOANS

■ 3. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989.

■ 4. Amend § 762.124 as follows:
■ a. Revise paragraphs (a)(2) and (a)(3) to read as set forth below,
■ b. Redesignate paragraphs (a)(4) and (a)(5) as (a)(5) and (a)(6), and
■ c. Add new paragraph (a)(4) to read as set forth below:

§ 762.124 Interest rate, terms, charges, and fees.

(a) * * *

(2) If a variable rate is used, it must be tied to an index or rate specifically agreed to between the lender and borrower in the loan instruments and the rate adjustments must be in accordance with normal practices of the lender for unguaranteed loans. Upon request, the lender must provide the Agency with copies of its written rate adjustment practices.

(3) At the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the unguaranteed portion of a fixed or variable rate OL or FO loan may not exceed the following, as applicable:

(i) For lenders using risk-based pricing practices, the risk tier at least one tier lower (representing lower risk) than that borrower would receive without a guarantee. The lender must provide the Agency with copies of its written pricing practices, upon request.

(ii) For lenders not using risk-based pricing practices, for variable rate loans or fixed rate loans with rates fixed for less than five years, 650 basis points (6.5 percentage points) above the 3-month LIBOR.

(iii) For lenders not using risk-based pricing practices, for loans with rates fixed for five or more years, 550 basis points (5.5 percentage points) above the 5-year Treasury note rate.

(4) In the event the 3-month LIBOR is below 2 percent, the maximum rates specified in paragraph (a)(3) of this section do not apply. In that case, at the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the unguaranteed portion of an OL or FO loan may not exceed 750 basis points above the 3-month LIBOR for variable rate loans and 650 basis points above the 5-year Treasury rate for fixed rate loans.

* * * * *

■ 5. Amend § 762.150 by revising paragraph (g) to read as follows:

§ 762.150 Interest assistance program.

* * * * *

(g) *Rate of interest.* The lender interest rate will be set according to § 762.124(a).

* * * * *

Signed on February 12, 2013.

Juan M. Garcia,

Administrator, Farm Service Agency.

[FR Doc. 2013–04930 Filed 3–1–13; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1211; Special Conditions No. 25–486–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplanes; Flight Envelope Protection: Pitch and Roll Limiting Functions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–550 airplane. This airplane will have a novel or unusual design feature associated with pitch and roll limiting functions, specifically an electronic flight control system which contains fly-by-wire control laws, including envelope protections. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* April 3, 2013.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The aircraft has a conventional configuration with a low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell

HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

The airworthiness standards in Title 14, Code of Federal Regulations (14 CFR) part 25 do not specifically relate to flight characteristics associated with fixed attitude limits. Embraer S.A. will implement pitch and roll attitude protection functions through the normal modes of the electronic flight control system that will provide speed stability for high and low pitch angles. These functions also provide strong spiral stability for roll angles at high bank angles. In addition, bank angle limiting is introduced at speeds greater than V_{MO}/M_{MO}, up to V_{DF}/M_{DF}.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model EMB–550 airplane will incorporate the following novel or unusual design feature: An electronic flight control system which contains fly-by-wire control laws, including envelope protections, which were not envisioned when part 25 was written.

Discussion

We expect that high thrust-to-weight ratios will provide the most critical cases for the positive pitch limit. A margin in pitch control must be available to enable speed control in maneuvers such as climb after takeoff and balked landing climb. The pitch limit must not impede likely maneuvering made necessary by collision avoidance efforts. A negative pitch limit must similarly not interfere with collision avoidance capability or with attaining and maintaining speeds near V_{MO}/M_{MO} for emergency descent.

Spiral stability must not restrict attaining roll angles up to 65 degrees (i.e., an approximately 2.4*g*-level turn). This force must not require excessive pilot strength as stated in § 25.143(f).

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–12–10–SC for the Embraer S.A. Model EMB–550 airplanes was published in the **Federal Register** on November 20, 2012 (77 FR 69569). We received one comment from Mr. Sokolow, who stated that these types of rules should be generic and not pertain to one model. He said that it splinters the regulations and can lead to abuse.

We acknowledge Mr. Sokolow's concerns about issuing regulations for individual models. In the case of new technlogy or new designs that are not covered in the regulations, the FAA issues special conditions that are applicable to only one model of airplane. The Embraer S.A. Model EMB–550 airplane will have a novel or unusual design feature associated with pitch and roll limiting functions, specifically an electronic flight control system which contains fly-by-wire control laws, including envelope protections. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

We agree with the commenter that the FAA should issue general rulemaking to cover general issues that affect many types of airplanes. Currently, the FAA is tasking an Aviation Rulemaking Advisory Committee (ARAC) to address this and other similar requirements for electronic flight control systems (EFCS). The goal is to develop general rules that could be applied to all designs. In the meantime, however, we will continue to issue special conditions to ensure an adequate level of safety for specific EFCS design features.

We are adopting the special conditions as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer S.A. Model EMB–550 airplanes.

In addition to § 25.143, the following requirements apply:

1. *Flight Envelope Protection:* Pitch and Roll Limiting Functions.

a. The pitch limiting function must not impede normal maneuvering for pitch angles up to the maximum required for normal maneuvering, including a normal all-engines operating takeoff, plus a suitable margin to allow for satisfactory speed control.

b. The pitch and roll limiting functions must not restrict or prevent attaining pitch attitudes necessary for emergency maneuvering or roll angles up to 66 degrees with flaps up, or 60 degrees with flaps down. Spiral

stability, which is introduced above 33 degrees roll angle, must not require excessive pilot strength to achieve these roll angles. Other protections, which further limit the roll capability under certain extreme angle of attack or attitude or high speed conditions, are acceptable, as long as they allow at least 45 degrees of roll capability.

c. A lower limit of roll is acceptable beyond the overspeed warning if it is possible to recover the aircraft to the normal flight envelope without undue difficulty or delay.

Issued in Renton, Washington, on February 26, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–04855 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1292; Special Conditions No. 25–485–SC]

Special Conditions: Embraer S.A., Model EMB–550 Airplanes; Electrical/Electronic Equipment Bay Fire Detection and Smoke Penetration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer S.A. Model EMB–550 airplane. This airplane will have novel or unusual design features, specifically distributed electrical and electronic equipment bays in pressurized areas of the airplane. Older transport category airplane electrical/electronic equipment bay installations are located in the lower lobe where the flight crew could determine the origin of smoke or fire by a straightforward airplane flight manual procedure. In distributed electrical/electronic bay installations it is not as straightforward. The FAA has no requirement for smoke and/or fire detection in the electrical/electronic equipment bays. To ensure effective mitigation of fires, the FAA proposes these special conditions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective April 3, 2013.

FOR FURTHER INFORMATION CONTACT: Robert C. Jones, FAA, Propulsion and Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1234; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2009, Embraer S.A. applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jet airplanes designed for corporate flight, fractional, charter, and private owner operations. The airplane has a conventional configuration with a low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for 8 passengers, with a maximum of 12 passengers. It is equipped with two Honeywell HTF7500–E medium bypass ratio turbofan engines mounted on aft fuselage pylons. Each engine produces approximately 6,540 pounds of thrust for normal takeoff. The primary flight controls consist of hydraulically powered fly-by-wire elevators, aileron and rudder, controlled by the pilot or copilot sidestick.

The Model EMB–550 airplane has electrical/electronic equipment bays distributed throughout the airplane; three of them are in the pressurized area. The current airworthiness requirements do not contain adequate or appropriate safety standards regarding smoke/fire detection and protection against penetration of hazardous quantities of smoke from equipment bays into occupied areas of the airplane for this type of airplane configuration.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Embraer S.A. must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–127 thereto.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model EMB–550 airplane will incorporate the following novel or unusual design features: Distributed electrical and electronic equipment bays that were not envisioned at the time this rule was made.

Discussion

In general, smoke and fire detection systems are designed to:

- Automatically shut off power to the affected equipment,
- If necessary, reconfigure the environmental control systems to control any smoke resulting from a fire or overheat condition, and
- Alert the flight crew to the existence of the fire.

Most airplanes certified under part 25 have one or two electrical equipment bays located in the lower lobe, adjacent to pressure regulator/outflow valves or vents. If a fire occurs in an electrical equipment bay, any smoke is drawn toward the outflow valves or vents and is discharged from the airplane without entering occupied areas. In the event of a smoke or fire in one of the electrical equipment bays, the procedures to isolate the bay on some airplanes requires the flight crew to use trial and error to determine whether or not the source is in a particular electrical equipment bay. However, with this approach, the flight crew does not know where the fire or smoke is because it is difficult to identify the source, especially during changes of phases of flight (e.g., climbing or descending) or system transients (e.g., changes in the airflow from the environmental control system).

This trial-and-error approach may be acceptable for aircraft with no more

than two electrical equipment bays, both located in the lower lobe. In this case, a fire in an electrical equipment bay is in either one bay or the other. However, for an aircraft with three or more electrical equipment bays, in the time it takes to determine the source of smoke, the fire could spread, generating even more smoke and damage.

In the Model EMB–550 airplane, electrical equipment bays are distributed throughout the airplane in the pressurized compartment. Section 25.857 requires that cargo compartments have means to prevent hazardous quantities of smoke or fire extinguishing agent from penetrating into occupied areas of the airplane. However, the applicable airworthiness regulations do not address the following:

- Preventing hazardous quantities of smoke or extinguishing agent originating from the electrical equipment bays from penetrating into occupied areas of the airplane; or
- Installing smoke or fire detectors in electrical equipment bays.

The FAA determined that the Model EMB–550 needs a means to detect smoke or fire in each electrical equipment bay that is located in the pressurized cabin. This means must indicate in which bay the smoke or fire occurs, and ensure that the flight crew can depower it. For situations in which it may be impossible for the flight crew to shut down all the equipment in the bay due to the use of critical or essential equipment located in it, Embraer S.A. shall conduct an analysis to:

- Specify the criteria for shutting down specific electrical equipment in the electrical equipment bay that can be shut down,
- Demonstrate that remaining electrical equipment is protected against fire propagation, such as thermal protection, fire containment, and other systems as addressed in Advisory Circular 25–16, *Electrical Fault and Fire Prevention and Protection,* dated April 5, 1991.

The criteria developed for aircraft designs that incorporate distributed electrical/electronic equipment bays are based upon existing smoke/fire detection and smoke penetration guidance and acceptable past practices. Sections 25.831(b), 25.831(c), 25.831(d), and 25.869(a) provide the general requirements that apply to electrical/electronic equipment smoke penetration and evacuation. Flight tests are conducted to demonstrate compliance; however, the amount of smoke generated and flight test conditions have been highly variable.

The special conditions below require that there must be a means to detect smoke or fire in each electrical/electronic equipment bay located in the pressurized compartment. They also include requirements to prevent propagation of hazardous quantities of smoke or fire extinguishing agent throughout the passenger cabin.

Discussion of Comments

Notice of proposed special conditions No. 25–12–17–SC for the Embraer S.A. Model EMB–550 airplanes was published in the **Federal Register** on December 19, 2012 (77 FR 75071). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer S.A. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Embraer S.A. Model EMB–550 airplanes.

1. Requirements to prevent propagation of smoke that originates in electrical equipment bays from entering the passenger cabin and flight deck:

a. To prevent such propagation, means to prevent hazardous quantities of smoke originating from the electrical equipment bays from incapacitating passengers and crew must be demonstrated. The demonstrations must include flight tests, and shall be conducted for all dispatchable system configurations.

b. A small quantity of smoke may enter an occupied area only under the following conditions:

i. The smoke enters occupied areas during system transients from below the deck or main deck sources. No sustained smoke penetration beyond that from environmental control system transients is permitted,

ii. Penetration of the small quantity of smoke is a dynamic event, involving either dissipation or mobility. Dissipation is rapid dilution of the smoke by ventilation air. Mobility is rapid movement of the smoke into and out of the occupied area. In no case should a light haze indicative of stagnant airflow form, as this indicates that the ventilation system is failing to meet the requirements of 14 CFR 25.831,

iii. The smoke from a source below the main deck must not rise above armrest height on the main deck, and

iv. The smoke from a source in the main deck must dissipate rapidly via dilution with fresh air and be evacuated from the airplane. The Airplane Flight Manual (AFM) must include procedures to evacuate smoke from the occupied areas. To demonstrate that the quantity of smoke is small, a flight test must be conducted which simulates the emergency procedures used in the event of a fire during flight, including the use of V_{MO}/M_{MO} descent profiles and a simulated landing, if such conditions are specified in the emergency procedure.

2. Requirement for smoke or fire detection in electrical/electronic equipment bays: A smoke or fire detection system compliant with §§ 25.855(a), (b), (c), and (d); and § 25.858 must be provided for each electrical/electronic equipment bay in the pressurized cabin. Each system must provide a visual indication to the flight deck within one minute after the start of a fire. Airplane flight tests must be conducted to show compliance with these requirements, and the performance of the detectors must be shown in accordance with Advisory Circular 25–9A, *Smoke Detection, Penetration, and Evacuation Tests and Related Flight Manual Emergency Procedures,* or other means acceptable to the FAA.

3. Requirement for AFM procedures safety analysis: It shall be demonstrated that the AFM procedures to shut down electrical/electronic equipment bays, or part of them, in case of smoke/fire detection, do not compromise the safe operation of the aircraft. If a procedure requests to shut down only part of the equipment, the remaining equipment shall be incorporated with safety precautions against fire propagation.

Issued in Renton, Washington, on February 26, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–04854 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30888; Amdt. No. 3523]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 4, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 2013.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on February 15, 2013.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending

Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
4–Apr–13	MA	Worcester	Worcester Rgnl	3/3157	02/08/13	RNAV (GPS) RWY 33, Orig.
4–Apr–13	OK	Tulsa	Tulsa Intl	3/3790	02/08/13	RNAV (RNP) Z RWY 26 Orig–B.
4–Apr–13	MI	Saginaw	Saginaw County H.W. Browne	3/3806	02/08/13	RNAV (GPS) RWY 27, Amdt 1A.
4–Apr–13	MI	Saginaw	Saginaw County H.W. Browne	3/3807	02/08/13	ILS OR LOC/DME RWY 27 Orig–A.
4–Apr–13	CA	Los Angeles	Los Angeles Intl	3/4191	02/08/13	RNAV (GPS) Y RWY 7L, Amdt 2B.
4–Apr–13	NJ	Manville	Central Jersey Rgnl	3/5067	02/08/13	RNAV (GPS) RWY 25, Amdt 1A.
4–Apr–13	NJ	Manville	Central Jersey Rgnl	3/7662	02/11/13	RNAV (GPS) RWY 7, Amdt 1.

[FR Doc. 2013–04574 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30887; Amdt. No. 3522]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 4, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 2013.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and

textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on February 15, 2013.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 4 April 2013

Miami, FL, Miami Intl, RNAV (GPS) Z RWY 26L, Amdt 1B
Macon, GA, Macon Downtown, Takeoff Minimums and Obstacle DP, Amdt 6
Des Moines, IA, Des Moines Intl, Takeoff Minimums and Obstacle DP, Amdt 11
Connersville, IN, Mettel Field, RNAV (GPS) RWY 18, Amdt 1A
Louisville, KY, Louisville Intl-Standiford Field, ILS OR LOC RWY 17R, Amdt 3
Montevideo, MN, Montevideo-Chippewa County, RNAV (GPS) RWY 14, Orig
Montevideo, MN, Montevideo-Chippewa County, RNAV (GPS) RWY 32, Orig
Montevideo, MN, Montevideo-Chippewa County, VOR RWY 14, Amdt 5
Cleveland, OH, Cleveland-Hopkins Intl, ILS PRM RWY 6L, Orig-D, CANCELED
Cleveland, OH, Cleveland-Hopkins Intl, ILS PRM RWY 24R, Amdt 1, CANCELED
Cleveland, OH, Cleveland-Hopkins Intl, LDA PRM RWY 6R, Amdt 1C, CANCELED
Cleveland, OH, Cleveland-Hopkins Intl, LDA PRM RWY 24L, Orig-C, CANCELED
Washington, PA, Washington County, RNAV (GPS) RWY 9, Amdt 1B
Wilkes-Barre/Scranton, PA, Wilkes-Barre/Scranton Intl, ILS OR LOC/DME RWY 4, Amdt 36
Wilkes-Barre/Scranton, PA, Wilkes-Barre/Scranton Intl, ILS OR LOC/DME RWY 22, Amdt 7
Memphis, TN, Memphis Intl, RNAV (GPS) Z RWY 18L, Amdt 2B
Memphis, TN, Memphis Intl, RNAV (GPS) Z RWY 18R, Amdt 2B
Georgetown, TX, Georgetown Muni, NDB RWY 18, Amdt 5, CANCELED

Effective 2 May 2013

Evergreen, AL, Middleton Field, RNAV (GPS) RWY 1, Amdt 1
Evergreen, AL, Middleton Field, RNAV (GPS) RWY 10, Amdt 1
Evergreen, AL, Middleton Field, RNAV (GPS) RWY 19, Amdt 1
Evergreen, AL, Middleton Field, RNAV (GPS) RWY 28, Amdt 1
Evergreen, AL, Middleton Field, Takeoff Minimums and Obstacle DP, Amdt 2
Willcox, AZ, Cochise County, COCHISE ONE, Graphic DP
Willcox, AZ, Cochise County, Takeoff Minimums and Obstacle DP, Amdt 1
Oroville, CA, Oroville Muni, RNAV (GPS) RWY 2, Orig-A
Oroville, CA, Oroville Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Oroville, CA, Oroville Muni, VOR–A, Amdt 7A
Shafter, CA, Shafter-Minter Field, RNAV (GPS) RWY 12, Amdt 1
Shafter, CA, Shafter-Minter Field, Takeoff Minimums and Obstacle DP, Amdt 1
Shafter, CA, Shafter-Minter Field, VOR–A, Amdt 1
Fort Myers, FL, Southwest Florida Intl, ILS OR LOC/DME RWY 6, Amdt 7
Fort Myers, FL, Southwest Florida Intl, RNAV (GPS) RWY 24, Amdt 2
Lake City, FL, Lake City Gateway, NDB RWY 28, Amdt 2A
Lake City, FL, Lake City Gateway, RNAV (GPS) RWY 10, Orig-D
Lake City, FL, Lake City Gateway, RNAV (GPS) RWY 28, Amdt 1A
Miami, FL, Kendall-Tamiami Executive, RNAV (GPS) RWY 27L, Amdt 2
Adel, GA, Cook County, RNAV (GPS) RWY 5, Amdt 1
Adel, GA, Cook County, RNAV (GPS) RWY 23, Amdt 1
Atlanta, GA, Atlanta South Rgnl, RNAV (GPS) RWY 6, Orig-B
Atlanta, GA, Atlanta South Rgnl, RNAV (GPS) RWY 24, Orig-A
Atlanta, GA, Atlanta South Rgnl, Takeoff Minimums and Obstacle DP, Orig-A
Columbus, GA, Columbus Airport, ILS OR LOC RWY 6, Amdt 25A
Columbus, GA, Columbus Airport, RNAV (GPS) RWY 6, Orig-A
Columbus, GA, Columbus Airport, RNAV (GPS) RWY 13, Orig-A
Columbus, GA, Columbus Airport, RNAV (GPS) RWY 24, Orig-A
Columbus, GA, Columbus Airport, Takeoff Minimums and Obstacle DP, Amdt 7A
Columbus, GA, Columbus Airport, VOR–A, Amdt 23A
Thomasville, GA, Thomasville Rgnl, NDB RWY 22, Amdt 6
Ankeny, IA, Ankeny Rgnl, ILS OR LOC RWY 36, Amdt 2
Ankeny, IA, Ankeny Rgnl, RNAV (GPS) RWY 36, Amdt 1
Fort Dodge, IA, Fort Dodge Rgnl, VOR/DME RWY 30, Amdt 11
Hartford, KY, Ohio County, RNAV (GPS) RWY 3, Orig-A
Hartford, KY, Ohio County, RNAV (GPS) RWY 21, Orig-A
Hartford, KY, Ohio County, Takeoff Minimums and Obstacle DP, Amdt 1A
Hartford, KY, Ohio County, VOR/DME–A, Orig-A
London, KY, London-Corbin Arpt-Magee Fld, Takeoff Minimums and Obstacle DP, Amdt 3A
Westfield/Springfield, MA, Westfield-Barnes Regional Airport, ILS OR LOC RWY 20, Amdt 7A
Westfield/Springfield, MA, Westfield-Barnes Regional Airport, RNAV (GPS) RWY 2, Orig-A
Westfield/Springfield, MA, Westfield-Barnes Regional Airport, RNAV (GPS) RWY 20, Amdt 1A
Westfield/Springfield, MA, Westfield-Barnes Regional Airport, Takeoff Minimums and Obstacle DP, Amdt 4A

Westfield/Springfield, MA, Westfield-Barnes Regional Airport, VOR RWY 20, Amdt 20D
Westfield/Springfield, MA, Westfield-Barnes Regional Airport, VOR OR TACAN RWY 2, Amdt 4E
Waterville, ME, Waterville Robert Lafleur, ILS OR LOC/DME RWY 5, Amdt 4
Waterville, ME, Waterville Robert Lafleur, RNAV (GPS) RWY 5, Amdt 1
Ava, MO, Ava Bill Martin Memorial, GPS RWY 13, ORIG, CANCELED
Ava, MO, Ava Bill Martin Memorial, GPS RWY 31, ORIG–A, CANCELED
Ava, MO, Ava Bill Martin Memorial, RNAV (GPS) RWY 13, ORIG
Ava, MO, Ava Bill Martin Memorial, RNAV (GPS) RWY 31, ORIG
Ava, MO, Ava Bill Martin Memorial, Takeoff Minimums and Obstacle DP, Orig
Ava, MO, Ava Bill Martin Memorial, VOR–A, Amdt 3
Laurens, SC, Laurens County, Takeoff Minimums and Obstacle DP, Orig
Walterboro, SC, Lowcountry Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2
Sturgis, SD, Sturgis Muni, RNAV (GPS) RWY 11, Amdt 1
Sturgis, SD, Sturgis Muni, RNAV (GPS) RWY 29, Amdt 1
Tullahoma, TN, Tullahoma Rgnl Arpt/WM Northern Field, SDF RWY 18, Amdt 5A, CANCELED
Commerce, TX, Commerce Muni, RNAV (GPS) RWY 18, Orig
Commerce, TX, Commerce Muni, RNAV (GPS) RWY 36, Orig
Siren, WI, Burnett County, Takeoff Minimums and Obstacle DP, Orig

[FR Doc. 2013–04571 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 189 and 700

[Docket No. FDA–2004–N–0188] (Formerly 2004N–0081)

RIN 0910–AF47

Use of Materials Derived From Cattle in Human Food and Cosmetics; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim final rule; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or ''we'') is reopening the comment period for the interim final rule entitled ''Use of Materials Derived From Cattle in Human Food and Cosmetics'' that published in the **Federal Register** of July 14, 2004 (69 FR 42256). The interim final rule prohibited the use of certain cattle material to address the potential risk of bovine spongiform encephalopathy (BSE) in human food, including dietary supplements, and cosmetics. In the **Federal Register** of September 7, 2005 (70 FR 53063), we amended the interim final rule to make changes, including providing that the small intestine of cattle, formerly prohibited cattle material, could be used in human food and cosmetics if the distal ileum was removed by a specified procedure or one that the establishment could demonstrate is equally effective in ensuring complete removal of the distal ileum. Since 2005, peer-reviewed studies have been published showing the presence of infectivity in the proximal ileum, jejunum, ileocecal junction, and colon of cattle with BSE. Therefore, we are reopening the comment period for the interim final rule to give interested parties an opportunity to comment on the new studies concerning infectivity in parts of the small intestine other than the distal ileum.

DATES: Submit either electronic or written comments by May 3, 2013.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Johnny Braddy, Center for Food Safety and Applied Nutrition (HFS–316), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2131.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 14, 2004 (69 FR 42256), FDA published an interim final rule entitled ''Use of Materials Derived From Cattle in Human Food and Cosmetics.'' The interim final rule prohibited the use of certain cattle material to address the potential risk of BSE in human food and cosmetics. The interim final rule designated the small intestine as prohibited cattle material and prohibited its use in human food or cosmetics. In the **Federal Register** of September 7, 2005 (70 FR 53063), we amended the interim final rule to allow the use of the small intestine if the distal ileum is removed by a procedure that removes at least 80 inches of uncoiled and trimmed small intestine as measured from the ceco-colic junction and progressing proximally towards the jejunum or by a procedure that the establishment can demonstrate is equally effective in ensuring complete removal of the distal ileum.

On January 12, 2004, the U.S. Department of Agriculture, Food Safety and Inspection Service (FSIS), issued an interim final rule to designate materials that could potentially contain BSE infectivity as specified risk materials (SRMs) and prohibit their use for human food (see ''Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle''; 69 FR 1862; January 12, 2004). FSIS's interim final rule designated the distal ileum as an SRM but required that the entire small intestine be removed and disposed of as inedible to ensure the effective removal of the distal ileum. On September 7, 2005, FSIS, like FDA, amended its interim final rule to permit the use of the entire small intestine for human food if the distal ileum is removed by a procedure that removes at least 80 inches of the uncoiled and trimmed small intestine as measured from the ceco-colic junction and progressing proximally towards the jejunum or by a procedure that the establishment demonstrates is effective in ensuring complete removal of the distal ileum.

When the FDA and FSIS amendments to the interim final rules were published in 2005, BSE infectivity had been demonstrated in lymphoid tissue of the distal ileum. In naturally occurring cases, sparse immunostaining had also been observed in the myenteric plexus of the distal ileum indicating the presence of PrPSc· a TSE-specific protein (Ref. 1). Because the myenteric plexus extends throughout the small intestine, both FDA and FSIS considered that it was possible that infectivity might also exist in the myenteric plexus of the jejunum or the duodenum. We stated in our 2005 amendment to our interim final rule that if we became aware of data indicating that other portions of the small intestine harbored BSE infectivity, we would take action appropriate to the public health risk. FSIS stated in its 2005 amendment to its interim final rule that while it believed that the primary tissues of concern for spreading the BSE agent had been identified, FSIS would use the results of future studies on BSE to further refine its policies with regard to BSE (70 FR 53043 at 53047; September 7, 2005). In 2007, FSIS issued a final rule to make permanent the interim measures implemented in 2004 and amended in 2005 (72 FR 38700; July 13, 2007).

Since we amended our interim final rule in 2005 and FSIS issued its final rule in 2007, peer-reviewed studies have been published showing the presence of some infectivity in the proximal ileum,

jejunum, ileocecal junction, and colon of cattle with BSE. The new scientific data confirms the presence of limited amounts of BSE infectivity in the small intestine outside of the distal ileum of classical BSE infected cattle under experimental inoculation and field conditions. The infectivity levels reported in these studies were much lower than the infectivity levels that were previously demonstrated in the distal ileum.

We have added several peer-reviewed studies (Refs. 2 to 6) to the administrative record. We invite comment on those studies.

Additionally, the European Food Safety authority (EFSA) Panel on Biological Hazards (BIOHAZ) has reviewed and evaluated new data as it relates to the BSE epidemiological situation in the European Union. We have added the EFSA documents to the administrative record as well (Refs. 7 and 8). We have evaluated the data from the studies. Only trace amounts of infectivity have been found in the proximal ileum, jejunum, ileocecal junction, and colon of cattle with naturally occurring cases of BSE. We tentatively conclude that the effect of these traces of infectivity on the risk of human or ruminant exposure to BSE in the United States is negligible. The very low levels of infectivity in parts of the intestine other than the distal ileum, the sharp decline in the prevalence of BSE worldwide, FDA's BSE-related restrictions on the contents of animal food and feed (see 21 CFR 589.2000 and 589.2001), and the extremely low prevalence of BSE within cattle in the United States due to the presence of effective mitigations and compliance with international standards suggest that the risk from parts of the intestine other than the distal ileum is extremely low. We also note that the World Organization for Animal Health (formerly known as the Office International des Epizooties or ''OIE'') has not changed its definition of SRMs to include any part of the small intestine in addition to the distal ileum. Based on this assessment, we tentatively conclude that requiring the removal of additional parts of the small intestine would not provide a measurable risk reduction compared to that already being achieved by removal of the distal ileum in all cattle and that it would be appropriate to finalize our interim final rule without changing any provisions related to the small intestine. We invite comment on this tentative conclusion.

II. 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.*

III. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.*

1. Terry, L.A., S. March, S.J. Ryder, et al., ''Detection of Disease Specific PrP in the Distal Ileum of Cattle Exposed Orally to the Agent of Bovine Spongiform Encephalopathy,'' *Veterinary Record,* vol. 152, pp. 387–392, 2003.
2. Balkema-Buschmann, A., C. Fast, M. Kaatz, et al., ''Pathogenesis of Classical and Atypical BSE in Cattle.'' *Preventive Veterinary Medicine,* vol. 102, pp. 112–117, 2011.
3. Hoffmann, C., M. Eiden, M. Kaatz, et al., ''BSE Infectivity in Jejunum, Ileum and Ileocaecal Junction of Incubating Cattle,'' *Veterinary Research,* vol. 42, p. 21, 2011.
4. Kimura K. and M. Haritani, ''Distribution of Accumulated Prion Protein in a Cow With Bovine Spongiform Encephalopathy,'' *The Veterinary Record,* vol. 162, pp. 822–825, 2008.
5. Okada H., Y. Iwamaru, M. Imamura, et al. ''Detection of Disease-Associated Prion Protein in the Posterior Portion of the Small Intestine Involving the Continuous Peyer's Patch in Cattle Orally Infected With Bovine Spongiform Encephalopathy Agent,'' *Transboundary and Emerging Diseases,* vol. 58(4), pp. 333–343, Aug. 2011.
6. Stack M., S.J. Moore, A. Vidal-Diez, et al. ''Experimental Bovine Spongiform Encephalopathy: Detection of PrP(SC) in the Small Intestine Relative to Exposure Dose and Age,'' *Journal of Comparative Pathology,* vol. 145, pp. 289–301, 2011.
7. ''European Food Safety Authority (EFSA) Panel on Biological Hazards (BIOHAZ),'' *EFSA Journal,* vol. 1317, pp. 1–9, 2009.
8. ''European Food Safety Authority (EFSA) Panel on Biological Hazards (BIOHAZ),'' *EFSA Journal,* vol. 9(3), p. 2104, 2011.

Dated: February 26, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–04869 Filed 3–1–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 890

[Docket No. FDA–2011–P–0882]

Medical Devices; Exemption From Premarket Notification; Class II Devices; Wheelchair Elevator

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is publishing an order granting a petition requesting exemption from premarket notification requirements for wheelchair elevator devices commonly known as inclined platform lifts and vertical platform lifts. These devices are used to provide a means for a person with a mobility impairment caused by injury or other disease to move from one level to another, usually in a wheelchair. This order exempts wheelchair elevators, class II devices, from premarket notification and establishes conditions for exemption for this device that will provide a reasonable assurance of the safety and effectiveness of the device without submission of a premarket notification (510(k)). This exemption from 510(k), subject to these conditions, is immediately in effect for wheelchair elevators. All other devices classified under FDA's wheelchair elevator regulations, including attendant-operated stair climbing devices for wheelchairs and portable platform lifts, continue to require submission of 510(k)s. FDA is publishing this order in accordance with the section of the Food, Drug, and Cosmetic Act (the FD&C Act) permitting the exemption of a device from the requirement to submit a 510(k).

DATES: This order is effective March 4, 2013.

FOR FURTHER INFORMATION CONTACT: Brian Pullin, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1554, Silver Spring, MD 20993, 301–796–6455.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and its implementing regulations (21 CFR part 807) require persons who propose to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a device intended for human use to submit a 510(k) to FDA.

The device may not be marketed until FDA finds it ''substantially equivalent'' within the meaning of section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), section 206 of which added section 510(m) to the FD&C Act. Section 510(m)(1) of the FD&C Act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the FD&C Act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the FD&C Act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the FD&C Act provides that FDA may exempt a device from premarket notification requirements on its own initiative, or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance that the Agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions From Premarket Notification, Guidance for Industry and CDRH Staff'' (Class II 510(k) Exemption Guidance). That guidance can be obtained through the Internet on the Center for Devices and Radiological Health home page at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm080198.htm* or by sending an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 159 to identify the guidance you are requesting.

III. Petition

On December 2, 2011, FDA received a petition requesting an exemption from premarket notification for a wheelchair elevator commonly known as an inclined platform lift and a vertical platform lift. (See Docket No. FDA–2011–P–0882.) These devices are currently classified under 21 CFR 890.3930, *Wheelchair elevator.* On May 3, 2012, FDA responded to the petition with a letter explaining that the information provided in the petition was insufficient for the Agency to assess whether the risks posed by this type of device could be sufficiently mitigated in the absence of premarket notification requirements. To address the Agency's concerns, the petitioner submitted additional information regarding standards that could be relied upon to mitigate the device risks, which the Agency received on June 7, 2012. This restarted the 180-day clock under section 510(m)(2) of the FD&C Act. (See Class II Exemption Guidance, p. 3.)

In the **Federal Register** of June 1, 2012 (77 FR 32644), FDA published a notice announcing that this petition had been received and provided opportunity for interested persons to submit comments on the petition by July 2, 2012. FDA received one comment supporting an exemption from premarket notification for this type of device. The comment stated that these devices have been produced for many years and have a very good safety record. It noted that all of these products already need to comply with the FDA-recognized American Society of Mechanical Engineers (ASME) standard ''ASME A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts'' (ASME A18.1), which provides that these products are to be built and certified to the provisions of the National Electric Code and the Canadian Standards Association (CSA)/ASME standard ''CSA B44.1/ASME A17.5 Elevator and Escalator Electrical Equipment'' for elevator and escalator electrical equipment.

FDA has assessed the need for 510(k) clearance for this type of device against the criteria laid out in the Class II 510(k) Exemption Guidance and in 63 FR 3142, and agrees they weigh in favor of 510(k) exemption, as long as certain conditions are met. FDA agrees that the risks posed by the device and the characteristics of the device necessary for its safe and effective performance are well established. FDA believes that changes in the device that could affect safety and effectiveness will be readily detectable by certain types of routine analysis and nonclinical testing, such as those detailed in certain consensus standards. Therefore, after reviewing the petition, the additional information received on June 7, 2012, and the comment on the petition, FDA has determined that premarket notification is not necessary to assure the safety and effectiveness of inclined and vertical platform lifts, as long as the conditions for 510(k) exemption listed in this document are met. FDA responded to the petition by letter dated December 3, 2012, to inform the petitioner of this decision within the 180-day timeframe under section 510(m)(2) of the FD&C Act.

For clarity, this order: (1) Defines a subset of wheelchair elevators classified under § 890.3930 identified as ''permanently mounted wheelchair platform lifts'' and (2) exempts this subset of devices from premarket notification requirements provided certain conditions are met, which will be codified in this classification regulation. This order does not affect other devices classified under § 890.3930, such as attendant-operated stair climbing devices for wheelchairs and portable platform lifts, which remain subject to premarket notification requirements, and does not change the class of any of the devices classified under this regulation, which all remain in class II. These devices will remain subject to current good manufacturing practices requirements and other general controls under the statute.

IV. Conditions for Exemption

This final order provides conditions for exemption from premarket notification on appropriate testing and labeling of the device. The following conditions must be met for the device to be 510(k)-exempt: (1) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized edition of ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must demonstrate that the safety controls are adequate to prevent a free fall of the platform in the event of a device failure; (2) appropriate analysis and nonclinical testing must demonstrate the ability of the device to withstand the rated load with an appropriate factor of safety; (3) appropriate analysis and nonclinical testing must demonstrate the ability of the enclosures to prevent the user from falling from the device; and (4) appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized edition of AAMI/ANSI/IEC 60601–1–2, ''Medical

Electrical Equipment—Part 1–2: General Requirements for Safety—Collateral Standard: Electromagnetic Compatibility—Requirements and Tests,'' and ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must validate electromagnetic compatibility and electrical safety.

Firms are now exempt from 510(k) requirements for vertical and inclined platform lifts as long as they meet these conditions of exemption. Firms must comply with the particular mitigation measures set forth in the conditions for exemption or submit and receive clearance for a 510(k) prior to marketing.

V. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act of 1995

This final order contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 890

Medical devices, Physical medicine devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 890 is amended as follows:

PART 890—PHYSICAL MEDICINE DEVICES

■ 1. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 890.3930 is revised to read as follows:

§ 890.3930 Wheelchair elevator.

(a) Permanently mounted wheelchair platform lift—(1) *Identification.* A permanently mounted wheelchair platform lift is a motorized vertical or inclined platform lift device permanently installed in one location that is intended for use in mitigating mobility impairment caused by injury or other disease by providing a guided platform to move a person from one level to another, with or without a wheelchair.

(2) *Classification.* Class II. The permanently mounted wheelchair platform lift is exempt from premarket notification procedures in subpart E of part 807 of this chapter, subject to § 890.9 and the following conditions for exemption:

(i) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized edition of ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must demonstrate that the safety controls are adequate to prevent a free fall of the platform in the event of a device failure;

(ii) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized edition of ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must demonstrate the ability of the device to withstand the rated load with an appropriate factor of safety;

(iii) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized edition of ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must demonstrate the ability of the enclosures to prevent the user from falling from the device; and

(iv) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized editions of AAMI/ANSI/IEC 60601–1–2, ''Medical Electrical Equipment—Part 1–2: General Requirements for Safety—Collateral Standard: Electromagnetic Compatibility—Requirements and Tests,'' and ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must validate electromagnetic compatibility and electrical safety.

(b) Portable wheelchair elevators—(1) *Identification.* A portable wheelchair elevator is a motorized lift device that is not permanently mounted in one location and that is intended for use in mitigating mobility impairment caused by injury or other disease by providing a means to move a person, with or without a wheelchair, from one level to another (e.g., portable platform lifts, attendant-operated stair climbing devices for wheelchairs).

(2) *Classification.* Class II.

Dated: February 27, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–04899 Filed 3–1–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 890

[Docket No. FDA–2011–P–0804]

Medical Devices; Exemption From Premarket Notification; Class II Devices; Powered Patient Transport

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is publishing an order granting a petition requesting exemption from premarket notification requirements for powered patient transport devices commonly known as stairway chair lifts. These devices are used to assist in the transfer of a person with a mobility impairment caused by injury or other disease up and down flights of stairs. This order exempts stairway chair lifts, class II devices, from premarket notification and establishes conditions for exemption for this device that will provide a reasonable assurance of the safety and effectiveness of the device without submission of a premarket notification (510(k)). This exemption from 510(k), subject to these conditions, is immediately in effect for stairway chair lifts. All other devices classified under FDA's powered patient transport regulations, including attendant-operated portable stair-climbing chairs (which are different from wheelchairs) continue to require submission of 510(k)s. FDA is publishing this order in accordance with the section of the Food, Drug, and Cosmetic Act (the FD&C Act) permitting the exemption of a device from the requirement to submit a 510(k).

DATES: This order is effective March 4, 2013.

FOR FURTHER INFORMATION CONTACT: Brian Pullin, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1554, Silver Spring, MD 20993, 301–796–6455.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and its implementing regulations (21 CFR part 807) require persons who propose to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a device intended for human use to submit a 510(k) to FDA. The device may not be marketed until

FDA finds it ''substantially equivalent'' within the meaning of section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), section 206 of which added section 510(m) to the FD&C Act. Section 510(m)(1) of the FD&C Act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the FD&C Act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the FD&C Act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the FD&C Act provides that FDA may exempt a device from premarket notification requirements on its own initiative, or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance that the Agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions From Premarket Notification, Guidance for Industry and CDRH Staff'' (Class II 510(k) Exemption Guidance). That guidance can be obtained through the Internet on the Center for Devices and Radiological Health home page at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm080198.htm* or by sending an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 159 to identify the guidance you are requesting.

III. Petition

On November 7, 2011, FDA received a petition requesting an exemption from premarket notification for powered patient transport devices commonly known as stairlifts. (See Docket No. FDA–2011–P–0804.) These devices are currently classified under § 890.5150 (21 CFR 890.5150), *Powered patient transport.* On May 3, 2012, FDA responded to the petition with a letter explaining that the information provided in the petition was insufficient for the Agency to assess whether the risks posed by this type of device could be sufficiently mitigated in the absence of premarket notification requirements. To address the Agency's concerns, the petitioner submitted additional information regarding standards that could be relied upon to mitigate the device risks, which the Agency received on June 19, 2012. This restarted the 180-day clock under section 510(m)(2) of the FD&C Act. (See Class II 510(k) Exemption Guidance, p. 3.)

In the **Federal Register** of June 1, 2012 (77 FR 32642), FDA published a notice announcing that this petition had been received and provided opportunity for interested persons to submit comments on the petition by July 2, 2012. FDA received one comment supporting an exemption from premarket notification for this type of device. The comment stated that these devices have been produced for many years and have a very good safety record. It noted that all of these products already need to comply with the FDA-recognized American Society of Mechanical Engineers (ASME) standard ''ASME A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts'' (ASME A18.1), which provides that these products are to be built and certified to the provisions of the National Electric Code and the Canadian Standards Association (CSA)/ASME standard ''CSA B44.1/ASME A17.5 Elevator and Escalator Electrical Equipment'' for elevator and escalator equipment.

FDA has assessed the need for 510(k) clearance for this type of device against the criteria laid out in the Class II 510(k) Exemption Guidance and in 63 FR 3142, and agrees they weigh in favor of 510(k) exemption, as long as certain conditions are met. FDA agrees that the risks posed by the device and the characteristics of the device necessary for its safe and effective performance are well established. FDA believes that changes in the device that could affect safety and effectiveness will be readily detectable by certain types of routine analysis and nonclinical testing, such as those detailed in certain consensus standards. Therefore, after reviewing the petition, the additional information received on June 19, 2012, and the comment on the petition, FDA has determined that premarket notification is not necessary to assure the safety and effectiveness of stairway chair lifts, as long as the conditions for 510(k) exemption listed in this document are met. FDA responded to the petition by letter dated December 3, 2012, to inform the petitioner of this decision within the 180-day timeframe under section 510(m)(2) of the FD&C Act.

For clarity, this order: (1) Defines a subset of powered patient transport devices classified under § 890.5150 identified as ''powered patient stairway chair lifts,'' and (2) exempts this subset of devices from premarket notification requirements provided certain conditions are met, which will be codified in this classification regulation. This order does not affect other devices classified under § 890.5150, such as attendant-operated portable stair-climbing chairs (which are different from wheelchairs), which remain subject to premarket notification requirements, and does not change the class of any of the devices classified under this regulation, which all remain in class II. These devices will remain subject to current good manufacturing practices requirements and other general controls under the statute.

IV. Conditions for Exemption

This final order provides conditions for exemption from premarket notification on appropriate testing and labeling of the device. The following conditions must be met for the device to be 510(k)-exempt: (1) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized edition of ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must demonstrate that the safety controls are adequate to prevent a free fall of the chair in the event of a device failure; (2) appropriate analysis and nonclinical testing must demonstrate the ability of the device, including armrests, to withstand the rated load with an appropriate factor of safety; (3) appropriate restraints must be provided to prevent the user from falling from the device (such as that outlined in the currently FDA-recognized edition of ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts''); (4) appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-

recognized edition of AAMI/ANSI/IEC 60601–1–2, ''Medical Electrical Equipment—Part 1–2: General Requirements for Safety—Collateral Standard: Electromagnetic Compatibility—Requirements and Tests,'' and ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must validate electromagnetic compatibility and electrical safety; and (5) appropriate analysis and nonclinical testing must demonstrate the resistance of the device upholstery to ignition.

Firms are now exempt from 510(k) requirements for stairway chair lifts as long as they meet these conditions of exemption. Firms must comply with the particular mitigation measures set forth in the conditions for exemption or submit and receive clearance for a 510(k) prior to marketing.

V. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act of 1995

This final order contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 890

Medical devices, Physical medicine devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 890 is amended as follows:

PART 890—PHYSICAL MEDICINE DEVICES

■ 1. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Section 890.5150 is revised to read as follows:

§ 890.5150 Powered patient transport.

(a) Powered patient stairway chair lifts—(1) *Identification.* A powered patient stairway chair lift is a motorized lift equipped with a seat and permanently mounted in one location that is intended for use in mitigating mobility impairment caused by injury or other disease by moving a person up and down a stairway.

(2) *Classification.* Class II. The stairway chair lift is exempt from premarket notification procedures in subpart E of part 807 of this chapter, subject to § 890.9 and the following conditions for exemption:

(i) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized edition of American Society of Mechanical Engineers (ASME) A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must demonstrate that the safety controls are adequate to prevent a free fall of the chair in the event of a device failure;

(ii) Appropriate analysis and nonclinical testing must demonstrate the ability of the device, including armrests, to withstand the rated load with an appropriate factor of safety;

(iii) Appropriate restraints must be provided to prevent the user from falling from the device (such as that outlined in the currently FDA-recognized edition of ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'');

(iv) Appropriate analysis and nonclinical testing (such as that outlined in the currently FDA-recognized editions of AAMI/ANSI/IEC 60601–1–2, ''Medical Electrical Equipment—Part 1–2: General Requirements for Safety—Collateral Standard: Electromagnetic Compatibility—Requirements and Tests,'' and ASME A18.1 ''Safety Standard for Platform Lifts and Stairway Chair Lifts'') must validate electromagnetic compatibility and electrical safety; and

(v) Appropriate analysis and nonclinical testing must demonstrate the resistance of the device upholstery to ignition.

(b) All other powered patient transport—(1) *Identification.* A powered patient transport is a motorized device intended for use in mitigating mobility impairment caused by injury or other disease by moving a person from one location or level to another, such as up and down flights of stairs (e.g., attendant-operated portable stair-climbing chairs). This generic type of device does not include motorized three-wheeled vehicles or wheelchairs.

(2) *Classification.* Class II.

Dated: February 27, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–04897 Filed 3–1–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

[Docket ID: BIA–2013–0001]

RIN 1076–AF16

Courts of Indian Offenses

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule adds two Indian tribes to the list of tribes with Courts of Indian Offenses (also known as CFR Courts), and deletes five tribes from those under the jurisdiction of CFR Courts. The two tribes to be added are Skull Valley Band of Goshute Indians and the Seneca-Cayuga Tribe. The tribes to be removed from the list are the Seminole Nation, the Miami Tribe, the Choctaw Nation of Oklahoma, the Wyandotte Tribe, and the Quapaw Tribe.

DATES: This interim final rule is effective on March 4, 2013. Submit comments by April 3, 2013.

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

You may submit comments by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2013–0001. If you would like to submit comments through the Federal e-Rulemaking Portal, go to *www.regulations.gov* and do the following. Go to the box entitled ''Enter Keyword or ID,'' type in ''BIA–2013–0001,'' and click the ''Search'' button. The next screen will display the Docket Search Results for the rulemaking. If you click on BIA–2013–0001, you can view this rule and submit a comment. You can also view any supporting material and any comments submitted by others.

—*Email: consultation@bia.gov.* Include the number 1076–AF16 in the subject line of the message.

—*Mail:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MIB–4141–MS, Washington, DC 20240. Include the number 1076–AF16 in the subject line of the message.

—*Hand delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS

4141, Washington, DC 20240. Include the number 1076–AF16 in the subject line of the message.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Appel, Acting Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Rule
II. Procedural Requirements
A. Regulatory Planning and Review (E.O. 12866)
B. Regulatory Flexibility Act
C. Small Business Regulatory Enforcement Fairness Act
D. Unfunded Mandates Reform Act
E. Takings (E.O. 12630)
F. Federalism (E.O. 13132)
G. Civil Justice Reform (E.O. 12988)
H. Consultation With Indian Tribes (E.O. 13175)
I. Paperwork Reduction Act
J. National Environmental Policy Act
K. Information Quality Act
L. Effects on the Energy Supply (E.O. 13211)
M. Clarity of This Regulation
N. Public Availability of Comments
O. Determination To Issue an Interim Final Rule With Immediate Effective Date

I. Summary of Rule

This rule revises a section of 25 CFR part 11 to add the following Indian tribes to the list of tribes with established Courts of Indian Offenses (also known as CFR Courts): The Seneca-Cayuga Tribe and the Skull Valley Band of Goshute Indians. This rule inserts these tribes into 25 CFR 11.100. The tribes' names were inserted where they will appear in the list of tribes alphabetically, therefore necessitating redesignation of some of the paragraph numbers in the regulatory text, and placing the tribes in alphabetical order, where they were not.

The rule also revises a section of 25 CFR 11.100(c) to remove five tribes from the list of those with established CFR Courts. The tribes to be removed from the list are the Seminole Nation, the Miami Tribe, the Wyandotte Tribe, the Choctaw Nation of Oklahoma, and the Quapaw Tribe of Indians. This rule removes these tribes from 25 CFR 11.100(c). The tribes' names will no longer appear in the list of tribes alphabetically, therefore necessitating re-designation of some of the paragraph numbers in the regulatory text, and placing the tribes in alphabetical order, where they were not. Adding these tribes will allow for the administration of justice until the added tribes put into effect a law-and-order code that establishes a court system that meets regulatory requirements or until the tribe adopts a legal code and establishes a judicial system in accordance with its constitution and bylaws or other governing documents.

Courts of Indian Offenses operate in those areas of Indian country where tribes retain jurisdiction over Indians that is exclusive of State jurisdiction but where tribal courts have not been established to exercise that jurisdiction. The Skull Valley Band of Goshute Indians and the Seneca-Cayuga Tribe have limited resources and are in need of a judicial forum. The Eastern Seneca was once listed as being under the jurisdiction of the CFR Court, was removed from the list, and now is again in need of a judicial forum. The Wyandotte Tribe of Oklahoma, Seminole Nation of Oklahoma, Choctaw Nation of Oklahoma, the Miami Tribe, and the Quapaw Tribe of Indians were previously listed as being within the jurisdiction of the CFR Court and have, or are in the process of establishing, tribal courts; and are therefore no longer in need of an extra-tribal judicial forum.

Two tribes left the jurisdiction of the CFR Court to form their own courts since 25 CFR 11.100 was last revised, but are now seeking to come back under the jurisdiction of the CFR Court: the Delaware Nation and the Eastern Shawnee Tribe. Because no change was made to the rule to remove these tribes from list of CFR Courts, no revision is necessary now. This rule confirms that both the Delaware Nation and Eastern Shawnee Tribe are on the list of tribes with CFR Courts.

The following table lists the changes made to § 11.100:

Current § 11.100	Interim final rule § 11.100
(a)(1) Te-Moak Band of Western Shoshone Indians (Nevada)	Moved to (a)(3).
(a)(2) Ute Mountain Ute Tribe (Colorado)	Moved to (a)(6)
(a)(3) Tribes located in the former Oklahoma Territory (Oklahoma) that are listed in paragraph (b) of this section.	Moved to (a)(4).
(a)(4) Tribes located in the former Indian Territory (Oklahoma) that are listed in paragraph (c) of this section.	Moved to (a)(5)
(a)(5) Winnemucca Indian Tribe; and	Moved to (a)(7).
(a)(6) Santa Fe Indian School property, including Santa Fe Indian Health Hospital, and the Albuquerque Indian School Property (land held in trust for the 19 Pueblos of New Mexico).	Moved to (a)(1).
[Cell Left Intentionally Blank]	Added Skull Valley Band of Goshutes Indians (Utah) to (a)(2).
(b)(1) Apache Tribe of Oklahoma	No change.
(b)(2) Caddo Nation of Oklahoma	No change.
(b)(3) Comanche Nation (except Comanche Children's Court)	No change.
(b)(4) Delaware Nation	No change.
(b)(5) Fort Sill Apache Tribe of Oklahoma	No change.
(b)(6) Kiowa Tribe of Oklahoma	No change.
(b)(7) Otoe-Missouria Tribe of Oklahoma	No change.
(b)(8) Wichita and Affiliated Tribes of Oklahoma	No change.
(c)(1) Choctaw Nation	Deleted.
(c)(2) Seminole Nation	Deleted.
(c)(3) Eastern Shawnee Tribe	Moved to (c)(1).
(c)(4) Miami Tribe	Deleted.
(c)(5) Modoc Tribe	Moved to (c)(2).
(c)(6) Ottawa Tribe	Moved to (c)(3).
(c)(7) Peoria Tribe	Moved to (c)(4).
(c)(8) Quapaw Tribe; and	Deleted.

Current § 11.100	Interim final rule § 11.100
(c)(9) Wyandotte Nation	Deleted.
[Cell Left Intentionally Blank]	Added Seneca-Cayuga Tribe of Oklahoma to (c)(5).

II. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements. This rule is also part of the Department's commitment under the Executive Order to reduce the number and burden of regulations.

B. 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.*).

C. 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. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involves a compensable ''taking.'' A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no 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.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

H. Consultation with Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. During development of the rule, the Department discussed the rule with the affected tribes.

I. Paperwork Reduction Act

This rule does not contain any information collections requiring approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and,

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ''COMMENTS'' section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

N. Required Determinations Under the Administrative Procedure Act

We are publishing this interim final rule with a request for comment without prior notice and comment, as allowed under 5 U.S.C. 553(b). Under 553(b), we find that prior notice and comment are unnecessary and would be contrary to the public interest. This rule is necessary to ensure that these tribes have courts to administer justice on land under their jurisdiction. Prior notice and comment are unnecessary and would be contrary to the public interest because access to judicial process may be impeded or interrupted to a degree that the governmental function of providing justice for all tribal members is impaired.

As allowed under 5 U.S.C. 553 (d)(3), the effective date of this rule is the date of publication in the **Federal Register**. Good cause for an immediate effective date exists because the delay in publishing this rule would inhibit access to justice for tribal members and likely obstruct speedy trial rights for members of those tribes seeking to come under the jurisdiction of CFR Courts, and would diminish the sovereign right of those tribes to establish their own tribal courts and to assume personal and subject-matter jurisdiction now asserted by CFR Courts.

We have requested comments on this interim final rule. We will review any comments received and, by a future publication in the **Federal Register**, address any comments received and either confirm the interim final rule with or without change or initiate a proposed rulemaking.

List of Subjects in 25 CFR Part 11

Courts, Indians-law.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, amends part 11 in Title 25 of the Code of Federal Regulations as follows:

PART 11—COURTS OF INDIAN OFFENSES AND LAW AND ORDER CODE

■ 1. The authority for part 11 continues to read as follows:

Authority: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; 42 Stat. 208, 25 U.S.C. 13; 38 Stat. 586, 25 U.S.C. 200.

■ 2. Revise § 11.100 to read as follows:

§ 11.100 Where are Courts of Indian Offenses established?

(a) Unless indicated otherwise in this title, these Courts of Indian Offenses are established and the regulations in this part apply to the Indian country (as defined in 18 U.S.C. 1151 and by Federal court precedent) occupied by the following tribes:

(1) Santa Fe Indian School Property, including the Santa Fe Indian Health Hospital, and the Albuquerque Indian School Property (land held in trust for the 19 Pueblos of New Mexico);

(2) Skull Valley Band of Goshutes Indians (Utah);

(3) Te-Moak Band of Western Shoshone Indians (Nevada);

(4) Tribes located in the former Oklahoma Territory (Oklahoma) that are listed in paragraph (b) of this section;

(5) Tribes located in the former Indian Territory (Oklahoma) that are listed in paragraph (c) of this section;

(6) Ute Mountain Ute Tribe (Colorado); and

(7) Winnemucca Indian Tribe.

(b) This part applies to the following tribes located in the former Oklahoma Territory (Oklahoma):

(1) Apache Tribe of Oklahoma;

(2) Caddo Nation of Oklahoma;

(3) Comanche Nation (except Comanche Children's Court);

(4) Delaware Nation;

(5) Fort Sill Apache Tribe of Oklahoma;

(6) Kiowa Indian Tribe of Oklahoma;

(7) Otoe-Missouria Tribe of Indians; and

(8) Wichita and Affiliated Tribe of Indians.

(c) This part applies to the following tribes located in the former Indian Territory (Oklahoma):

(1) Eastern Shawnee Tribe of Oklahoma;

(2) Modoc Tribe of Oklahoma;

(3) Ottawa Tribe of Oklahoma;

(4) Peoria Tribe of Indians of Oklahoma; and

(5) Seneca-Cayuga Tribe of Oklahoma.

Dated: February 21, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–04824 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–6W–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0141; FRL–9786–4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; the 2002 Base Year Emissions Inventory for the Delaware Portion of the Philadelphia Nonattainment Area for the 1997 Annual Fine Particulate Matter National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Delaware State Implementation Plan (SIP) submitted by the State of Delaware, through the Delaware Department of Natural Resources and Environmental Control (DNREC) on April 3, 2008. The SIP revision pertains to the 2002 base year emissions inventory for the Delaware portion of the Philadelphia-Wilmington, Pennsylvania-New Jersey-Delaware (PA-NJ-DE) nonattainment area. The 2002 base year emissions inventory was submitted to meet nonattainment requirements related to the Delaware nonattainment area for the 1997 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). EPA is approving the 2002 base year emissions inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on April 3, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0141. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 19, 2012 (77 FR 69399), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the 1997 annual $PM_{2.5}$ attainment demonstration, analysis of reasonably available control measures (RACM) and reasonably available control technology (RACT), the 2002 base year emissions

inventory, contingency measures, and the motor vehicle emission budgets (MVEBs) used for transportation conformity purposes for New Castle County in Delaware. In this final rulemaking action, EPA is only taking final action on the 2002 base year emissions inventory portion of the November 19, 2012 NPR. EPA will be taking separate action on the remainder of the NPR which includes the approval of Delaware's SIP revision for the attainment demonstration, the analysis of RACM/RACT, contingency measures, and MVEBs.

II. Summary of SIP Revision

The $PM_{2.5}$ 2002 base year emissions inventory submitted by DNREC on April 3, 2008 for the State of Delaware includes emissions estimates that cover the general source categories of point sources, nonroad mobile sources, area sources, onroad mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOCs), $PM_{2.5}$, coarse particles (PM_{10}), ammonia (NH_3), and sulfur dioxide (SO_2). Discussions of the emissions inventory development as well as the emissions inventory can be found in the April 3, 2008 SIP submittal, a technical support document, and in the NPR available on line at *www.regulations.gov,* Docket No. EPA–R03–OAR–2010–0141. EPA has reviewed the results, procedures and methodologies for the base year emissions inventory submitted by DNREC. EPA found the process used to develop this emissions inventory for Delaware is adequate and meets the requirements of section 172(c)(3) of the CAA and EPA guidance for emission inventories. Specific requirements of the 2002 base year emissions inventory and the rationale for EPA's action are explained in the NPR and will not be restated here. No public comments were received on the portion of the NPR relating to the 2002 base year emissions inventory.

III. Final Action

EPA is approving the 2002 base year emissions inventory for the 1997 annual $PM_{2.5}$ NAAQS as a revision to the Delaware SIP.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 3, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the Delaware 2002 base year emissions inventory for the 1997 annual $PM_{2.5}$ NAAQS may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 14, 2013.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding at the end of the table an entry for 2002 Base Year Emissions Inventory for the 1997 annual fine particulate matter ($PM_{2.5}$) standard to read as follows:

§ 52.420 Identification of plan.

* * * * *

(e)* * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	*	* *	*
2002 Base Year Emissions Inventory for the 1997 annual fine particulate matter ($PM_{2.5}$) standard.	Delaware-Philadelphia-Wilmington, Pennsylvania-New Jersey-Delaware nonattainment area.	4/3/08	3/4/13 *[Insert page number where the document begins]*.	52.423(c)

■ 3. § 52.423 is amended by adding paragraph (c) to read as follows:

§ 52.423 1990 Base year emissions inventory.

* * * * *

(c) EPA approves as a revision to the Delaware State Implementation Plan for the 2002 base year emissions inventory for the Delaware 1997 annual fine particulate matter ($PM_{2.5}$) nonattainment area submitted by the Delaware Department of Natural Resources and Environmental Control on April 3, 2008. The 2002 base year emissions inventory includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOCs), $PM_{2.5}$, coarse particles (PM_{10}), ammonia (NH_3), and sulfur dioxide (SO_2).

[FR Doc. 2013–04810 Filed 3–1–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2013–0035; FXES11130900000C6–134–FF09E30000]

RIN 1018–AZ31

Endangered and Threatened Wildlife and Plants; Reinstatement of Removal of the Virginia Northern Flying Squirrel From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are issuing this final rule to comply with a court order that has the effect of reinstating the removal of the Virginia northern flying squirrel *(Glaucomys sabrinus fuscus)* from the List of Endangered and Threatened Wildlife under the Endangered Species Act of 1973 (ESA), as amended. Pursuant to the District of Columbia District Court of Appeals order dated August 17, 2012, and mandate dated November 13, 2012, this rule again removes the Virginia northern flying squirrel from the List of Endangered and Threatened Wildlife.

DATES: This action is effective March 4, 2013.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov*. It will also be available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, West Virginia Field Office, 694 Beverly Pike, Elkins, West Virginia 26241. Call (304) 636–6586 to make arrangements.

FOR FURTHER INFORMATION CONTACT: Deborah Carter, Project Leader, at our West Virginia field office (see **ADDRESSES**) or telephone (304) 636–6586, extension 12. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2008, we published a final rule to remove ESA protections for the Virginia northern flying squirrel, more commonly known as the West Virginia northern flying squirrel (WVNFS) (73 FR 50226). Additional background information on the WVNFS, including previous Federal actions, can be found in our August 26, 2008, final rule, *http://www.regulations.gov* in Docket No. FWS–R5–ES–2011–0035, or at *http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A09R.*

A lawsuit challenging our final rule was filed in U.S. District Court for the District of Columbia. On March 25, 2011, the U.S. District Court for the District of Columbia vacated and set aside our 2008 delisting rule *(Friends of Blackwater, et al.* v. *Salazar, et al.,* 772 F.Supp. 2d 232 (D.D.C. 2011)). On May 20, 2011, the Department of Justice on behalf of the Service appealed the District Court's decision to the U.S. Court of Appeals for the District of Columbia Circuit. Pending the appeal, and consistent with the District Court's March 25, 2011, order, we published a final rule reinstating ESA protections for the WVNFS (76 FR 35349, June 17, 2011).

On August 17, 2012, the U.S. Court of Appeals, in a two-to-one opinion, reversed the ruling of the U.S. District Court (*Friends of Blackwater, et al.* v. *Salazar, et al.,* 691 F.3d 428 (DC Cir. 2012)). On September 28, 2012, Friends of Blackwater *et al.* petitioned the U.S. Court of Appeals for a rehearing and a rehearing en banc, which were both denied on November 1, 2012 (*Friends of Blackwater, et al.* v. *Salazar, et al.,* DC Cir., No: 11–5128). On November, 13, 2012, the U.S. Court of Appeals issued its mandate consistent with its August 17, 2012, opinion reversing the U.S. District Court's vacatur of the WVNFS delisting rule. On January 30, 2013, Friends of Blackwater *et al.'s* time to file a petition for a writ of certiorari with the U.S. Supreme Court expired.

Administrative Procedure

This rulemaking is necessary to comply with the August 17, 2012, court order and November 13, 2012, mandate. Therefore, under these circumstances, the Director has determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are impractical and unnecessary. The Director has further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective upon publication.

Effects of the Rule

As of the publication of this rule, the WVNFS is again removed from the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). Therefore, this species will no longer receive Federal protection under the ESA. This rule will not affect the status of the WVNFS under State law or suspend any other legal protections provided by State law.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

To comply with the court order and mandate discussed above, we amend part 17, subchapter B of chapter I, title 50 of the CFR, 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; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by removing the entry for ''Squirrel, Virginia northern flying'' under ''MAMMALS'' from the List of Endangered and Threatened Wildlife.

Dated: February 25, 2013.

Rowan W. Gould,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 2013–04932 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register

Vol. 78, No. 42

Monday, March 4, 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 ENERGY

10 CFR Part 431

[Docket No. EERE–2012–BT–STD–0029]

RIN 1904–AC82

Energy Efficiency Program for Commercial and Industrial Equipment: Public Meeting and Availability of the Framework Document for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Notice of public meeting and availability of the framework document; correction.

SUMMARY: The U.S. Department of Energy (DOE) published a notice in the **Federal Register** on February 22, 2013, concerning an announcement of a public meeting and availability of the framework document for packaged terminal air conditioners and heat pumps. This document corrects the date of the public meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7935. Email: *PTACs@ee.doe.gov.*

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

Correction

DOE published a notice in the **Federal Register** on February 22, 2013 (78 FR 12252), concerning an announcement of a public meeting and availability of the framework document for packaged terminal air conditioners and heat pumps. This notice corrects the date of the public meeting. The public meeting will now be held on Monday, March 18, 2013, beginning at 9 a.m.

The purpose of the meeting is to discuss and receive comments on DOE's planned analytical approach and issues it will address in initiating a rulemaking and data collection process to consider amending energy conservation standards for this equipment.

Issued in Washington, DC, on February 26, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2013–04878 Filed 3–1–13; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 234

[Regulation HH; Docket No. R–1455]

RIN No. 7100–AD 94

Financial Market Utilities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Section 806(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'' or ''Act'') permits the Board of Governors of the Federal Reserve System (the ''Board'') to authorize a Federal Reserve Bank to establish and maintain an account for, and through the account provide certain financial services to, financial market utilities (''FMUs'') that are designated as systemically important by the Financial Stability Oversight Council (the ''Council''). In addition, section 806(c) of the Dodd-Frank Act permits a Reserve Bank to pay interest on the balances maintained by or on behalf of a designated FMU. The Board is proposing to add two new sections to Part 234 of Title 12 of the Code of Federal Regulations to implement these provisions of the Dodd-Frank Act.

DATES: Comments on this notice of proposed rulemaking must be received by May 3, 2013.

ADDRESSES: You may submit comments, identified by Docket No. R–1455 and RIN No. 7100–AD–94, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- *Facsimile:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jeff Stehm, Senior Associate Director (202) 452–2217 or Stuart Sperry, Assistant Director (202) 452–2832, Division of Reserve Bank Operations and Payment Systems; Christopher W. Clubb, Special Counsel (202) 452–3904 or Kara L. Handzlik, Counsel (202) 452–3852, Legal Division; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

A. Dodd-Frank Wall Street Reform and Consumer Protection Act

FMUs, such as payment systems, central securities depositories, and central counterparties, are critical components of the nation's financial system that provide the essential infrastructure to clear and settle payments and other financial transactions, upon which the financial markets and the broader economy rely to function effectively. FMUs operate multilateral systems in which financial institutions, such as banks, participate pursuant to a common set of rules and

procedures, a technical infrastructure, and a risk-management framework.[1]

Title VIII of the Dodd-Frank Act, titled the ''Payment, Clearing, and Settlement Supervision Act of 2010,'' was enacted to mitigate systemic risk in the financial system and to promote financial stability, in part, through an enhanced supervisory framework for FMUs designated as systemically important by the Council.[2] Designation by the Council makes an FMU subject to the supervisory and risk reduction framework set out in Title VIII of the Dodd-Frank Act. This framework includes risk management standards, promulgated by the designated FMU's Supervisory Agency, that take into consideration relevant international standards and existing prudential requirements, with the objectives of promoting robust risk management and safety and soundness of the designated FMU, reducing systemic risks, and supporting the stability of the broader financial system.[3] The framework also includes *ex ante* review of changes to the rules, procedures, or operations of a designated FMU that could materially affect the nature or level of risk presented by the designated FMU, enhanced annual examinations of designated FMUs, and enhanced enforcement and information collection provisions.

In addition to these provisions, section 806(a) of the Act permits the Board to authorize a Federal Reserve Bank to establish and maintain an account for a designated FMU and provide to the designated FMU the services listed in section 11A(b) of the Federal Reserve Act (12 U.S.C. 248a(b)) that the Federal Reserve Bank is authorized to provide to a depository institution, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board.[4] The services listed in Section 11A(b) include wire transfers, settlement, and securities safekeeping, as well as services regarding currency and coin, check clearing and collection, and automated clearing house transactions.

Section 806(c) of the Dodd-Frank Act permits a Federal Reserve Bank to pay earnings on balances maintained by or on behalf of a designated FMU in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board.

II. Explanation of Proposed Rules

On August 2, 2012, the Board published a final rule adding a new Part 234 to Title 12 of the Code of Federal Regulations, Regulation HH, containing risk management standards for designated FMUs pursuant to section 805(a) of the Act, as well as an advance notice requirement of any changes of a designated FMU's rules, procedures, or operations that could materially affect the nature or level of risks presented pursuant to section 806(e) of the Act.[5] The rules being proposed by this notice would be added to the end of Regulation HH. The Board is requesting public comment on all aspects of the proposed amendments to Regulation HH contained in this notice.

A. Proposed § 234.1(b)—Authority, Purpose, and Scope

The amendments proposed by this notice to § 234.1(b) of Regulation HH clarify that Part 234 also includes standards, restrictions, and guidelines for the establishment and maintenance of an account at, and provision of financial services from, a Federal Reserve Bank for a designated FMU. In addition, the proposed amendments clarify the authority and terms for a Reserve Bank to pay interest on any balances held by a designated FMU in its account at a Reserve Bank. The Board requests comment on whether these additions to the purpose and scope provisions of Regulation HH are sufficient and clear for the proposed rules herein.[6]

B. Proposed § 234.6—Access to Reserve Bank Accounts and Services

Proposed § 234.6 sets out the conditions and requirements for a Federal Reserve Bank to establish and maintain an account for, and provide services to, a designated FMU pursuant to section 806(a) of the Act. The proposed terms and conditions for access to Federal Reserve Bank accounts and services are intended to facilitate the use of Reserve Bank accounts and services by a designated FMU in order to reduce settlement risk and strengthen settlement processes, while limiting the risk presented by the designated FMU to the Reserve Banks. In particular, the proposed terms and conditions are designed to provide the Federal Reserve with sufficient information to assess a designated FMU's ongoing condition as it pertains to the FMU's ability to settle promptly and to manage its settlement process and Reserve Bank account(s) safely. Proposed § 234.6(a) provides that, after receiving the Board's authorization with respect to a particular designated FMU and subject to any applicable Board direction, the Reserve Bank may enter into agreements governing the details of the establishment, maintenance, and operation of such account and services, consistent with Board direction.

The Board expects that Reserve Banks would provide services that are consistent with a designated FMU's need for safe and sound settlement processes under account and service agreements generally consistent with the provisions of existing Reserve Bank operating circulars for such services, but recognizes that there may be a need for some flexibility to tailor certain parts of such agreements or provide for certain restrictions because of the wide variety of organizations, operations, and business models presented by designated FMUs. In addition, unlike depository institutions, designated FMUs do not have regular access to discount window lending, so the Board also expects that Reserve Banks will provide accounts and services, and designated FMUs will structure their settlement processes and use of Reserve Bank accounts and services, in a manner that would seek to avoid any intraday account overdraft, and that a designated

[1] Under section 803 of the Act, an FMU is defined as a person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person. 12 U.S.C. 5462(6).

[2] The Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376, was signed into law on July 21, 2010. Section 803(9) of the Act authorizes the Council to designate an FMU for enhanced supervision when the Council finds, among other things, that the failure of, or a disruption to the functioning of, an FMU would create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system of the United States. 12 U.S.C. 5462(3) and (9).

[3] Pursuant to section 803(8) of the Act, the ''Supervisory Agency'' generally means the Federal agency that has primary jurisdiction over a designated FMU under Federal banking, securities, or commodity futures law, including the Securities and Exchange Commission (SEC) with respect to a designated FMU that is a clearing agency registered with the SEC, the Commodity Futures Trading Commission (CFTC) with respect to a designated FMU that is a derivatives clearing organization registered with the CFTC, and the Board with respect to a designated FMU that is an institution subject to the Board's jurisdiction as described in section 3(q) of the Federal Deposit Insurance Act. The Board is also the Supervisory Agency for any designated FMU that is otherwise not subject to the jurisdiction of any agency as listed in section 803(8) of the Act.

[4] Section 806(a) of the Act also permits the Board to authorize a Reserve Bank to establish deposit accounts under the first undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342).

[5] 77 FR 45907.

[6] Section 234.1(a) of Regulation HH already cites to section 806 of the Dodd-Frank Act, so the rules proposed by this notice would not require any modification of the authority citation.

FMU would have the resources to promptly rectify any inadvertent overdraft.

Proposed § 234.6(b) requires that a Reserve Bank ensure that its establishment and maintenance of an account for, or provision of services to, a designated FMU does not create undue credit, settlement, or other risks to the Reserve Bank and, in this regard, sets out minimum conditions that a designated FMU must meet, in the Reserve Bank's judgment, in order for the Reserve Bank to establish and maintain an account for, or provide services to, a designated FMU. These minimum conditions are intended to address certain risks and other concerns that may face a Reserve Bank when establishing and maintaining an account for, and providing services to, a designated FMU.[7] The Reserve Bank must determine whether a designated FMU meets these minimum conditions and then determine, based on the facts and circumstances, whether additional measures or information are needed to address the risk presented by the designated FMU to the Reserve Bank. The minimum requirements for establishing an account or receiving services set out in proposed § 234.6(b)(1) through (4) are discussed below.

Proposed § 234.6(b)(1) requires the designated FMU to be in generally sound financial condition. Although there are a number of criteria that may be used to determine financial soundness, in general a designated FMU should maintain adequate capital to support its ongoing operations and absorb reasonable business losses and have sufficient operating revenue and working capital to cover its actual and projected operating expenses, giving due regard to the economic conditions and circumstances in the market in which the designated FMU operates. These resources would be separate and in addition to resources held to cover participant defaults that may arise through a designated FMU's payment, clearing, or settlement activities.

Proposed § 234.6(b)(2) requires the designated FMU to be in compliance, based on information provided by the Supervisory Agency, with requirements imposed by its Supervisory Agency regarding financial resources, liquidity, participant default management, and other aspects of risk management. The three agencies that currently serve as Supervisory Agencies (i.e., the Board, the Securities and Exchange Commission, and the Commodity Futures Trading Commission) have promulgated risk management standards that would be applicable to the FMUs that have been designated by the Council. As noted in proposed § 234.6(d), the Board will consult with the Supervisory Agency of a designated FMU prior to authorizing a Federal Reserve Bank to open an account to ascertain the views of the Supervisory Agency regarding, among other things, the designated FMU's compliance with the Supervisory Agency's risk management standards. At a minimum, the designated FMU should meet its Supervisory Agency's mandatory risk management standards.

Proposed § 234.6(b)(3) requires that a designated FMU be in compliance with Board orders and policies, Federal Reserve Bank operating circulars, and other applicable Federal Reserve requirements regarding the establishment and maintenance of a Reserve Bank account and the receipt of financial services from a Reserve Bank. A designated FMU will be expected to use Reserve Bank financial services, through its Reserve Bank account, in accordance with any applicable operating circular or Federal Reserve policy, as directed by the Reserve Bank.

Proposed § 234.6(b)(4) requires the Reserve Bank to determine that the designated FMU can demonstrate an ongoing ability, including during periods of market stress or a participant default, to meet all of its obligations under its agreement for a Federal Reserve Bank account and services. As noted above, designated FMUs would be expected to demonstrate an operational ability to avoid intraday overdrafts in its Reserve Bank account and have the financial resources to promptly rectify any inadvertent overdrafts if they were to occur.

Proposed § 234.6 also contains other provisions relevant to the establishment and maintenance of an account or provision of financial services by a Reserve Bank for a designated FMU. Proposed § 234.6(c) states that the Board or the relevant Reserve Bank may request that the designated FMU provide any information necessary regarding compliance with any conditions imposed under proposed § 234.6. The designated FMU would also be required to provide any verification that the Board or the Reserve Bank requests regarding information received under this section.

Proposed § 234.6(d) states that the Board will consult with the Supervisory Agency of a designated FMU prior to authorizing a Reserve Bank to open an account, and periodically thereafter, to ascertain the views of the Supervisory Agency regarding the condition of the designated FMU and its compliance with the requirements of proposed § 234.6, as well as to coordinate information requests to the designated FMU. For designated FMUs not supervised by the Board, the Board anticipates obtaining the views of the designated FMU's Supervisory Agency regarding the use of a Reserve Bank account and services and any concerns the Supervisory Agency may have with respect to the designated FMU. If a Reserve Bank account is established for the designated FMU, the Board expects that there will be an ongoing dialogue with the Supervisory Agency regarding the designated FMU's use of the account and services and its compliance with any conditions imposed under proposed § 234.6 with regard to the account or services. The Board also anticipates coordinating any information requests it may have for the designated FMU with the Supervisory Agency in order to reduce regulatory burden on the designated FMU.

Proposed § 234.6(e) states that, in addition to any right that a Reserve Bank has to terminate an account or the use of a service pursuant to an agreement, the Board may direct the Reserve Bank to impose limits, restrictions, or other conditions on the availability or use of a Reserve Bank account or service by a designated FMU, including directing the Reserve Bank to terminate the use of a particular service or to close the account. The Reserve Bank, on its own initiative or at the direction of the Board, may close the account if significant issues are raised and not resolved in areas such as excessive risk to the Reserve Bank, violation of Federal Reserve rules or policies, violation of other applicable law or regulation, or other compliance issues.

The Board requests comment on all aspects of proposed § 234.6. In particular, the Board requests comment on the conditions for establishing an account at a Reserve Bank provided in proposed § 234.6(b) and whether there are any other conditions that should be imposed in order to accomplish the Board's goals of reducing settlement and systemic risks and strengthening the settlement processes of designated FMUs through the use of Reserve Bank accounts and services, while limiting risk to the Reserve Banks.

[7] Risks to the Reserve Bank may include the potential for inadvertent overdrafts in certain circumstances, as well as the risks that may arise from new or different FMU settlement designs or processes that may arise in the future. The establishment of an account for a designated FMU at a Reserve Bank also may entail broader policy considerations and implications.

C. Proposed § 234.7—Interest on Balances

Pursuant to section 806(c) of the Act, proposed § 234.7 clarifies the authority of a Federal Reserve Bank to pay interest on any balance that a designated FMU maintains in its account with that Reserve Bank. Section 806(c) of the Act states that a Reserve Bank may pay earnings on balances maintained by a designated FMU ''in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.'' [8] Section 19(b)(12) of the Federal Reserve Act (FRA) authorizes a Federal Reserve Bank to pay, at least once each calendar quarter, interest on balances maintained at the Federal Reserve Bank by or on behalf of a depository institution, at a rate or rates not to exceed the general level of short-term interest rates.[9]

Proposed § 234.7(a) provides that a Federal Reserve Bank may pay interest on balances maintained by a designated FMU in its account at the Reserve Bank in accordance with the provisions of proposed § 234.7 and under such other terms and conditions as the Board may prescribe. This subsection essentially incorporates the statutory authority provided by section 806(c) of the Act.

Proposed § 234.7(b) states that interest on balances paid under this section shall be at the rate paid on balances of depository institutions or another rate determined by the Board from time to time, not to exceed the general level of ''short-term interest rates.'' Proposed § 234.7(c) incorporates the definition of ''short-term interest rates'' set out in § 204.10(b)(3) of the Board's Regulation D, which states that ''short-term interest rates'' are rates on obligations with maturities of no more than one year, such as the primary credit rate and rates on term federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar instruments.[10]

III. Administrative Law Matters

A. Regulatory Flexibility Act Analysis

Congress enacted the Regulatory Flexibility Act (the ''RFA'') (5 U.S.C. 601 *et seq.*) to address concerns related to the effects of agency rules on small entities, and the Board is sensitive to the impact their rules may impose on small entities. The RFA requires agencies either to provide an initial regulatory flexibility analysis with a proposed rule or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. In accordance with section 3(a) of the RFA, the Board has reviewed the proposed regulation. In this case, the proposed rule would apply to FMUs that are designated by the Council as systemically important to the U.S. financial system. Based on current information, the Board believes that the FMUs that have been and would likely be designated by the Council would not be ''small entities'' for purposes of the RFA, and so, the proposed rule likely would not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). The authority to designate systemically important FMUs, however, resides with the Council, rather than the Board, and the Board cannot therefore be assured of the identity of the FMUs that the Council may designate in the future. Accordingly, an Initial Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 603, based on current information. The Board requests comment on all aspects of this Initial Regulatory Flexibility Analysis. The Board will, if necessary, conduct a final regulatory flexibility analysis after consideration of comments received during the public comment period.

1. *Statement of the need for, objectives of, and legal basis for, the proposed rule.* The Board is proposing additional regulations to implement certain provisions of Title VIII of the Dodd-Frank Act. Pursuant to section 806(a) of the Act, proposed § 234.6 sets out conditions under which the Board would authorize a Federal Reserve Bank to establish and maintain an account for a designated FMU and provide the designated FMU services through the account. Pursuant to section 806(c) of the Dodd-Frank Act, proposed § 234.7 sets out conditions for a Reserve Bank to pay interest on the balances maintained by a designated FMU at the Reserve Banks.

Under section 806 of the Act, all of these authorities are subject to any applicable rules or regulations that the Board may prescribe. The Board believes that the proposed regulations herein are necessary to provide guidance to the Federal Reserve Banks in implementing these authorities of the Act in an appropriate and uniform manner and to inform the affected institutions and the public of the conditions for obtaining accounts and services.

2. *Small entities affected by the proposed rule.* The proposed rule would affect FMUs that the Council designates as systemically important to the U.S. financial system. The Council has designated eight FMUs that would meet these conditions and be affected by this proposed rule. Pursuant to regulations issued by the Small Business Administration (the ''SBA'') (13 CFR 121.201), a ''small entity'' includes an establishment engaged in (i) financial transaction processing, reserve and liquidity services, and/or clearinghouse services with an average revenue of $7 million or less (NAICS code 522320); (ii) securities and/or commodity exchange activities with an average revenue of $7 million or less (NAICS code 523210); and (iii) trust, fiduciary, and/or custody activities with an average revenue of $7 million or less (NAICS code 523991). Based on current information, the Board does not believe that any of the FMUs that have been or would likely be designated by the Council would be ''small entities'' pursuant to the SBA regulation.

3. *Projected reporting, recordkeeping, and other compliance requirements.* The proposed rule imposes certain reporting, recordkeeping, and other compliance requirements for a designated FMU. For example, proposed § 234.6(b)(1) requires the designated FMU to be in generally sound financial condition. In addition, proposed § 234.6(b)(4) requires a designated FMU to demonstrate an ongoing ability, including during periods of market stress or a participant default, to meet all of its obligations under its agreement for a Reserve Bank account and services. Proposed § 234.6(c) also clarifies that the Board or Reserve Bank may request a designated FMU to provide any information or verification necessary to determine compliance with any conditions imposed under proposed § 234.6.

4. *Identification of duplicative, overlapping, or conflicting Federal rules.* The Board does not believe that any Federal rules conflict with the proposed rules. Certain entities that are designated FMUs under Title VIII of the Act may maintain an account with a Reserve Bank under other statutory authority, such as an entity that is chartered as a depository institution, state member bank, or Edge corporation. This rulemaking would provide additional authority for the entity to establish and maintain an account at a Reserve Bank and, arguably, be duplicative or overlapping with such other authority. This rulemaking would not, however, create any conflicting requirements for a designated FMU that is permitted to maintain an account

[8] 12 U.S.C. 5465(c).

[9] 12 U.S.C. 461(b)(12)(A). This statutory authority has been implemented through § 204.10 of the Board's Regulation D. 12 CFR 204.10.

[10] 12 CFR 204.10(b)(3).

with a Reserve Bank under multiple sources of authority.

5. *Significant alternatives to the proposed rule.* In lieu of the proposed rules, the Board could have proposed fewer or less stringent conditions on designated FMUs. The Board believes, however, that the proposed rules are necessary to address risk to the Reserve Banks in offering accounts and services and that the information required from designated FMUs under the proposed rules is needed to mitigate such risks. In addition, the Board does not believe that providing fewer or less stringent conditions for designated FMUs that are small entities would achieve the regulation's purpose because the risks to the Reserve Banks are the same regardless of whether the designated FMU is a small entity. The Board also considered a more expansive list of detailed conditions, but decided instead to set the overall standard as avoiding undue risk to the Reserve Bank, while providing a limited number of minimum requirements in meeting that standard. As noted above, the proposed rules provide some flexibility to the Reserve Bank in determining whether any additional measures are necessary to mitigate the risks presented by that designated FMU, given the facts and circumstances of the designated FMU seeking the account or services.

B. Paperwork Reduction Act Analysis

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320, Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. The proposed rule contains no requirements subject to the PRA.

IV. Statutory Authority

Pursuant to the authority in Title VIII of the Dodd-Frank Act and particularly sections 806(a) and (b) (12 U.S.C. 5465(a) and (b)), the Board proposes two new sections to part 234 (Regulation HH).

List of Subjects in 12 CFR Part 234

Banks, Banking, Commodity futures, Credit, Electronic funds transfers, Financial market utilities, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR Chapter II as set forth below.

PART 234—DESIGNATED FINANCIAL MARKET UTILITIES (REGULATION HH)

■ 1. The authority citation for part 234 continues to read as follows:

Authority: 12 U.S.C. 5461 *et seq.*

■ 2. Amend § 234.1 by revising paragraph (b) to read as follows:

§ 234.1 Authority, purpose, and scope.

* * * * *

(b) *Purpose and scope.* This part establishes risk-management standards governing the operations related to the payment, clearing, and settlement activities of designated financial market utilities. In addition, this part sets out requirements and procedures for a designated financial market utility that proposes to make a change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by the designated financial market utility and for which the Board is the Supervisory Agency (as defined below). The risk management standards do not apply, however, to a designated financial market utility that is a derivatives clearing organization registered under section 5b of the Commodity Exchange Act (7 U.S.C. 7a–1) or a clearing agency registered with the Securities and Exchange Commission under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1), which are governed by the risk-management standards promulgated by the Commodity Futures Trading Commission or the Securities and Exchange Commission, respectively, for which each is the Supervisory Agency. This part also sets out standards, restrictions, and guidelines regarding a Federal Reserve Bank establishing and maintaining an account for, and providing services to, a designated financial market utility. In addition, this part confirms the terms under which a Reserve Bank may pay a designated financial market utility interest on the designated financial market utility's balances held at the Reserve Bank.

■ 3. Add §§ 234.6 and 234.7 to read as follows:

§ 234.6 Access to Federal Reserve Bank accounts and services.

(a) This section applies to any designated financial market utility for which the Board may authorize a Federal Reserve Bank to open an account or provide services in accordance with section 806(a) of the Dodd-Frank Act. Upon receipt of Board authorization and subject to any limitations, restrictions, or other requirements established by the Board, a Federal Reserve Bank may enter into agreements governing the details of its accounts and services with a designated financial market utility, consistent with this section and any other applicable Board direction.

(b) A Federal Reserve Bank should ensure that its establishment and maintenance of an account for or provision of services to a designated financial market utility does not create undue credit, settlement, or other risk to the Reserve Bank. At a minimum, to establish and maintain an account with a Federal Reserve Bank or receive financial services from a Federal Reserve Bank, a designated financial market utility must, in the Federal Reserve Bank's judgment—

(1) Be in generally sound financial condition;

(2) Be in compliance, based on information provided by the Supervisory Agency, with requirements imposed by its Supervisory Agency regarding financial resources, liquidity, participant default management, and other aspects of risk management;

(3) Be in compliance with Board orders and policies, Federal Reserve Bank operating circulars, and other applicable Federal Reserve requirements regarding the establishment and maintenance of an account at a Federal Reserve Bank and the receipt of financial services from a Federal Reserve Bank; and

(4) Demonstrate an ongoing ability, including during periods of market stress or a participant default, to meet all of its obligations under its agreement for a Federal Reserve Bank account and services.

(c) The Board or Federal Reserve Bank may request that the designated financial market utility provide any information or verification necessary regarding compliance with any conditions imposed under this section.

(d) The Board will consult with the Supervisory Agency of a designated financial market utility prior to authorizing a Federal Reserve Bank to open an account, and periodically thereafter, to ascertain the views of the Supervisory Agency regarding the condition of the designated financial market utility and compliance with the requirements of this section or to coordinate information requests.

(e) In addition to any right that a Reserve Bank has to terminate an account or the use of a service pursuant to an agreement, the Board may direct the Federal Reserve Bank to impose limits, restrictions, or other conditions on the availability or use of a Federal Reserve Bank account or service by a designated financial market utility, including directing the Reserve Bank to terminate the use of a particular service or to close the account.

§ 234.7 Interest on balances.

(a) A Federal Reserve Bank may pay interest on balances maintained by a designated financial market utility at the Federal Reserve Bank in accordance with this section and under such other terms and conditions as the Board may prescribe.

(b) Interest on balances paid under this section shall be at the rate paid on balances maintained by depository institutions or another rate determined by the Board from time to time, not to exceed the general level of short-term interest rates.

(c) For purposes of this section, ''short-term interest rates'' shall have the same meaning as the meaning provided for that term in § 204.10(b)(3) of this chapter.

By order of the Board of Governors of the Federal Reserve System, February 26, 2013.

Robert deV. Frierson,

Secretary to the Board.

[FR Doc. 2013–04841 Filed 3–1–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0096; Directorate Identifier 2012–NM–143–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A318–112, A319–111, A319–112, A319–115, A319–132, and A319–133 airplanes. This proposed AD was prompted by a report that a fastener, which connects the cargo door keel beam foot to the circumferential butt-strap and the section 13–14 lower shell panel, was not installed on airplanes during production. This proposed AD would require inspecting forward fuselage frame 24, stringer 39, right hand, to determine if the fastener is missing; measuring the hole dimensions of the five holes surrounding the missing fastener if necessary; and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct the missing fastener, which could result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by April 18, 2013.

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

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

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0096; Directorate Identifier 2012–NM–143–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0132, dated July 19, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During a ground inspection of an A319 aeroplane in production, it was discovered that one fastener was missing at stringer (STGR) 39 on the right-hand (RH) side of FR [forward fuselage frame] 24 (Section 13–14 side). The hole of the missing fastener was not drilled. The missing fastener, a 4.8 mm [millimeter] diameter titanium bolt, Part Number (P/N) EN 6114 V3–7, should connect the cargo door keel beam foot to the circumferential butt-strap and the section 13–14 lower shell panel. Further investigations have revealed that the affected fastener has not been installed on a limited number of aeroplanes in production, due to incorrect production instructions.
>
> This condition, if not corrected, could impair the structural integrity of the affected aeroplanes.
>
> * * * * *

The required actions include doing a detailed inspection to determine if the fastener is missing, measuring the hole dimensions of the five holes surrounding the missing fastener if necessary, and related investigative and corrective actions if necessary. The related investigative actions include a rototest inspection of the five holes for cracking. The corrective actions include repairing any holes with diameter values that exceed the specified dimensions, repairing any cracking found, and installing new fasteners. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A320–53–1242, including Appendix 01, dated May 22, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

Although EASA Airworthiness Directive 2012–0132, dated July 19, 2012, specifies to contact the manufacturer for instructions to repair certain conditions, this proposed AD would require repairing those conditions using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA (or its delegated agent).

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 3 products of U.S. registry. We also estimate that it would take about 26 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost $1,904 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be up to $12,342, or $4,114 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2013–0096; Directorate Identifier 2012–NM–143–AD.

(a) Comments Due Date

We must receive comments by April 18, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A318–112, A319–111, A319–112, A319–115, A319–132, and A319–133 airplanes; certificated in any category; manufacturer serial numbers 3983, 3985, 3998, 4000, 4004, 4007, 4018, 4020, 4029, 4036, 4038 through 4040 inclusive, 4048, 4052, 4056, 4069, 4071, 4076, 4080, 4087, 4089, 4121, 4125, 4127, 4129, 4132, 4141, 4151, 4163, 4164, 4166, 4169, 4171, 4182, 4192, 4200, 4204, 4211, 4215, 4222, 4227, 4228, 4254, 4256, 4258, 4259, 4262, 4268, 4275, 4282, 4285, 4287, 4301, 4313, 4319, 4327, 4332, and 4336.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report that a fastener, which connects the cargo door keel beam foot to the circumferential butt-strap and the section 13–14 lower shell panel, was not installed on airplanes during production. We are issuing this AD to detect and correct the missing fastener, which could result in 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) Inspections

At the applicable time specified in table 1 to paragraphs (g) and (h) of this AD: Do a detailed inspection at forward fuselage frame 24, stringer 39, right hand, to determine if the fastener is missing, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1242, excluding Appendix 01, dated May 22, 2012.

TABLE 1 TO PARAGRAPHS (G) AND (H) OF THIS AD—COMPLIANCE TIME

Airplane configuration—	Compliance time—
Model A319 airplanes, except manufacturer serial numbers 4151, 4228, and 4319; and Model A318 airplanes, pre-mod 39195, and on which the actions specified in Airbus Service Bulletin A320-00–1219 have not been embodied in service.	Before the accumulation of 5,000 total flight cycles since first flight of the airplane, or within 4,300 flight cycles after the effective date of this AD, whichever occurs later.

TABLE 1 TO PARAGRAPHS (G) AND (H) OF THIS AD—COMPLIANCE TIME—Continued

Airplane configuration—	Compliance time—
Model A318 airplanes, post-mod 39195; and Model A318 airplanes on which the actions specified in Airbus Service Bulletin A320–00–1219 have been embodied in service.	Before the accumulation of 3,000 total flight cycles since first flight of the airplane, or within 90 days after the effective date of this AD, whichever occurs later.
Model A319 airplanes, manufacturer serial numbers 4151, 4228, and 4319 (post-mod 28238, 28162, and 28342).	Before the accumulation of 2,500 total flight cycles since first flight of the airplane, or within 90 days after the effective date of this AD, whichever occurs later.

(h) Measurements and Corrective Actions

If, during any inspection required by paragraph (g) of this AD, the fastener is determined to be missing, within the applicable compliance time specified in table 1 to paragraphs (g) and (h) of this AD: Measure the hole dimensions of the five holes surrounding the missing fastener, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1242, excluding Appendix 01, dated May 22, 2012, except where the service bulletin specifies to contact Airbus, before further flight, repair using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA (or its delegated agent). Do all applicable related investigative and corrective actions before further flight.

(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, 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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information EASA Airworthiness Directive 2012–0132, dated July 19, 2012; and Airbus Service Bulletin A320–53–1242, excluding Appendix 01, dated May 22, 2012; for related information.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 25, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–04903 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2011–1242; Airspace Docket No. 11–AWP–16

Proposed Amendment of Class D Airspace; El Monte, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D Airspace at El Monte Airport, El Monte, CA. This action, initiated by the biennial review of the El Monte Airspace Area, would amend the Class D Airspace to accommodate departures and arrivals, while enhancing the safety and management of aircraft arriving and departing under Instrument Flight Rule (IFR) operations at El Monte Airport.

DATES: Comments must be received on or before April 18, 2013.

ADDRESSES: Send comments on this proposal 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; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2011–1242; Airspace Docket No. 11–AWP–16, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–1242 and Airspace Docket No. 11–AWP–16) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2011–1242 and Airspace Docket No. 11–AWP–16''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the

closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class D Airspace at El Monte Airport, El Monte, CA. The FAA's biennial review of the airspace found additional controlled airspace is necessary laterally for the safety and management of aircraft departing and arriving under IFR operations at El Monte Airport, along with a reduction in the ceiling due to arrivals to Los Angeles International Airport that overfly El Monte Airport.

Class D Airspace designations are published in paragraph 5000, of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class D Airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at El Monte Airport, El Monte CA.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9 W, Airspace Designations and Reporting Points, dated August 8, 2012, and effective September 15, 201 is amended as follows:

Paragraph 5000. Class D Airspace areas.

* * * * *

AWP CA D El Monte Airport, CA [Amended]

El Monte Airport, CA

(Lat. 34°05′10″ N., long. 118°02′05″ W.)

That airspace extending upward from the surface to and including 2,400 feet MSL within a 4-mile radius of El Monte Airport and within 1.8 miles each side of the El Monte Airport 097° bearing extending from the 4-mile radius to 4.5 miles east of the airport. This Class D Airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Seattle, Washington, on February 15, 2013.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–04886 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0051; Airspace Docket No. 13–ANM–2]

Proposed Establishment of Class E Airspace; Cherokee, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E Airspace at the Cherokee VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME) navigation aid, Cherokee, WY to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Denver and Salt Lake City Air Route Traffic Control Centers (ARTCCs). The FAA is proposing this action to enhance the safety and management of aircraft operations within the National Airspace System.

DATES: Comments must be received on or before April 18, 2013.

ADDRESSES: Send comments on this proposal 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; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2013–0051; Airspace Docket No. 13–ANM–2, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2013–0051 and Airspace Docket No. 13–ANM–2) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0051 and Airspace Docket No. 13–ANM–2''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Cherokee VOR/DME navigation aid, Cherokee, WY. This action would contain aircraft while in IFR conditions under control of Denver and Salt Lake City ARTCC by vectoring aircraft from en route airspace to terminal areas.

Class E Airspace designations are published in paragraph 6006, of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E Airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at the Cherokee VOR/DME, Cherokee, WY.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

ANM WY E6 Cherokee, WY [New]

Cherokee VOR/DME, WY
(Lat. 41°45′21″ N., long. 107°34′55″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 39°59′03″ N., long. 110°43′27″ W.; to lat. 40°21′23″ N., long. 109°42′25″ W.; to lat. 41°10′22″ N., long. 109°42′26″ W.; to lat. 42°15′53″ N., long. 108°06′44″ W.; to lat. 42°52′37″ N., long. 107°47′58″ W.; to lat. 43°01′57″ N., long. 107°06′08″ W.; to lat. 42°23′15″ N., long. 106°50′11″ W.; to lat. 41°49′09″ N., long. 105°41′46″ W.; to lat. 40°33′32″ N., long. 105°37′50″ W.; to lat. 40°36′40″ N., long. 108°02′31″ W.; to lat. 39°26′08″ N., long.

110°01′37″ W.; to lat. 39°37′44″ N., long. 111°07′28″ W., thence to the point of beginning.

Issued in Seattle, Washington, on February 13, 2013.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–04890 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 57

[REG–118315–12]

RIN 1545–BL20

Health Insurance Providers Fee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that provide guidance on the annual fee imposed on covered entities engaged in the business of providing health insurance for United States health risks. This fee is imposed by section 9010 of the Patient Protection and Affordable Care Act, as amended. The regulations affect persons engaged in the business of providing health insurance for United States health risks.

DATES: Written or electronic comments must be received by June 3, 2013. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for June 21, 2013, at 10:00 a.m., must be received by June 3, 2013.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–118315–12), Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–118315–12), Courier's Desk Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the IRS Internet site via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–118315–12). The public hearing will be held in the IRS Auditorium at the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the substance of the regulation, Charles J. Langley, Jr. at (202) 622–3130; concerning the submission of comments or the public hearing, Oluwafunmilayo (Funmi) Taylor at (202) 622–7180 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by May 3, 2013. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in § 57.2(e)(2) and requires certain entities to maintain records of consent for a designated entity. This information is necessary to evaluate whether an entity has consented to the designation of another entity to report its net premiums written. The likely respondents are entities in the business of providing health insurance for United States health risks.

Estimated total annual reporting and/or recordkeeping burden: 400 hours.

Estimated average annual burden hours per respondent and/or recordkeeper varies from .25 hours to 1 hour, depending on individual circumstances, with an estimated average of .5 hours.

Estimated number of respondents and/or recordkeepers: 800.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background

This document proposes to add the Health Insurance Providers Fee Regulations to the Code of Federal Regulations (26 CFR part 57) under section 9010 of the Patient Protection and Affordable Care Act (PPACA), Public Law 111–148 (124 Stat. 119 (2010)), as amended by section 10905 of PPACA, and as further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act or ACA). All references in this preamble to section 9010 are references to the ACA. Section 9010 did not amend the Internal Revenue Code (Code) but contains cross-references to specified Code sections. Unless otherwise indicated, all other references to subtitles, chapters, subchapters, and sections in this preamble are references to subtitles, chapters, subchapters, and sections in the Code and related regulations. All references to ''fee'' in the proposed regulations are references to the fee imposed by section 9010.

Statutory Provisions

Section 9010(a) imposes an annual fee on each covered entity engaged in the business of providing health insurance. The fee is due by the annual date specified by the Secretary of the Treasury or his delegate (Secretary), but in no event later than September 30th of each calendar year in which a fee must be paid (fee year).

Section 9010(c)(1) provides that a covered entity is any entity that provides health insurance for any United States health risk during each fee year. Section 9010(c)(2) excludes the following entities from being covered entities: (A) Any employer to the extent that the employer self-insures its employees' health risks; (B) any governmental entity; (C) any entity (i) that is incorporated as a nonprofit corporation under a State law, (ii) no part of the net earnings of which inures

to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in section 501(h)), and which does not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office, and (iii) more than 80 percent of the gross revenues of which is received from government programs that target low-income, elderly, or disabled populations under titles XVIII, XIX, and XXI of the Social Security Act; and (D) any entity that is described in section 501(c)(9) (a voluntary employees' beneficiary association (VEBA)) and is established by an entity (other than by an employer or employers) for purposes of providing health care benefits.

Section 9010(c)(3)(A) provides a controlled group rule under which all persons treated as a single employer under section 52(a) or (b) or section 414(m) or (o) are treated as a single covered entity. If any entity described in section 9010(c)(2)(C) or (D) (relating to certain nonprofit corporations and non-employer-established VEBAs) is treated as included in a covered entity by reason of the application of section 9010(c)(3)(A), then the net premiums written for health insurance for any United States health risk of that entity are not taken into account.

Section 9010(c)(3)(B) provides that, for purposes of section 9010(c)(3)(A), in applying section 52(a) and (b), section 1563 is applied without regard to section 1563(b)(2)(C). As a result, a foreign entity subject to tax under section 881 can also be part of a controlled group that is treated as a single covered entity under section 9010(c)(3)(A). Section 9010(c)(4) provides that, if more than one person is liable to pay the fee on a single covered entity by reason of the application of the controlled group rule, then all such persons are jointly and severally liable for payment of the fee.

Section 9010 imposes the fee on each covered entity engaged in the business of providing health insurance for United States health risks. Section 9010(h)(3) excludes from health insurance any insurance coverage described in section 9832(c)(1)(A) (accident only or disability only or any combination thereof), any insurance coverage described in section 9832(c)(3) (coverage only for a specified disease or illness and hospital indemnity or other fixed indemnity insurance), any insurance for long-term care, or any Medicare supplemental health insurance (as defined in section 1882(g)(1) of the Social Security Act). Other than providing for these exclusions, section 9010 does not define health insurance.

Section 9010(d) defines United States health risk to mean a health risk of any individual who is: (1) A United States citizen; (2) a resident of the United States (within the meaning of section 7701(b)(1)(A)); or (3) located in the United States, during the period such individual is so located. Section 9010(h)(2) defines United States for purposes of section 9010 as the 50 States, the District of Columbia, and the possessions of the United States.

Section 9010(b) and (e) provide rules for determining the amount of the annual fee for each covered entity. Under section 9010(e)(1), the aggregate fee amount for all covered entities (referred to as the applicable amount) is $8 billion for calendar year 2014, $11.3 billion for calendar years 2015 and 2016, $13.9 billion for calendar year 2017, and $14.3 billion for calendar year 2018. Under section 9010(e)(2), the applicable amount for calendar year 2019 and thereafter is the applicable amount for the preceding calendar year increased by the rate of premium growth (within the meaning of section 36B(b)(3)(A)(ii)) for the preceding calendar year. Section 9010(b)(1) requires the applicable amount for each year to be allocated, using a specified formula, among covered entities with aggregate net premiums written of over $25 million.

Section 9010(b)(1) provides that the annual fee for each covered entity is calculated by determining the ratio of (1) the covered entity's net premiums written for health insurance for any United States health risk that are taken into account during the preceding calendar year to (2) the aggregate net premiums written for such health insurance of all covered entities that are taken into account during the preceding calendar year. This ratio is then applied to the applicable amount.

Under section 9010(b)(2)(A), the amount of net premiums written that is taken into account for each covered entity per calendar year is 0 percent of net premiums written up to and including $25 million, 50 percent of net premiums written that are more than $25 million but not more than $50 million, and 100 percent of net premiums written that are over $50 million. Additionally, after the application of the dollar thresholds of section 9010(b)(2)(A), section 9010(b)(2)(B) excludes from the amount taken into account 50 percent of the remaining net premiums written for health insurance that are attributable to the activities (other than activities of an unrelated trade or business as defined in section 513) of any covered entity qualifying under section 501(c)(3), (4), (26), or (29) and exempt from tax under section 501(a).

Section 9010(b)(3) requires the Secretary to calculate the amount of each covered entity's fee for any calendar year. In calculating the fee, the Secretary must determine each covered entity's net premiums written for United States health risks based on reports submitted to the Secretary by the covered entity and through the use of any other source of information available to the Secretary.

Section 9010(g)(1) requires that, not later than the date determined by the Secretary following the end of the calendar year preceding the fee year, each covered entity must report to the Secretary, in such manner as the Secretary prescribes, the covered entity's net premiums written for health insurance for any United States health risk for that preceding calendar year.

Section 9010(g)(2)(A) imposes a penalty on a covered entity for any failure to report the required information by the date prescribed by the Secretary (determined with regard to any extension of time for filing), unless such failure is due to reasonable cause. The penalty is $10,000 plus the lesser of (i) an amount equal to $1,000, multiplied by the number of days during which the failure continues, or (ii) the amount of the fee for which the report was required. Section 9010(g)(2)(B) provides that the failure to report penalty (i) is treated as a penalty for purposes of subtitle F, (ii) must be paid on notice and demand by the Secretary and in the same manner as a tax under the Code, and (iii) is a penalty for which only civil actions for refund under procedures of subtitle F apply.

Section 9010(g)(3)(A) imposes an accuracy-related penalty on a covered entity for any understatement of the covered entity's net premiums written on the required report. Section 9010(g)(3)(B) defines an understatement as the difference between the amount of net premiums written reported by the covered entity and the amount of net premiums written that should have been reported. The penalty is equal to the excess of (i) the amount of the covered entity's fee for the fee year that the Secretary determines should have been paid in the absence of the understatement, over (ii) the amount of the fee that the Secretary determined based on the understatement. Section 9010(g)(3)(C) subjects the accuracy-related penalty to the provisions of

subtitle F that apply to assessable penalties imposed under chapter 68.

Section 9010(g)(4) provides that section 6103 (relating to the disclosure of returns and return information) does not apply to any information reported under section 9010(g).

Section 9010(f)(1) treats the fee as an excise tax for purposes of subtitle F to which only civil actions for refund apply. Section 9010(f)(2) treats the fee as a tax described in section 275(a)(6) (relating to taxes for which no deduction is allowed).

Section 9010(i) directs the Secretary to publish guidance necessary to carry out the purposes of section 9010 and to prescribe such regulations as are necessary or appropriate to prevent avoidance of the purposes of section 9010, including inappropriate actions taken to qualify as an exempt entity under section 9010(c)(2).

Section 9010(j) provides that section 9010 is effective for calendar years beginning after December 31, 2013.

Explanation of Provisions

I. Overview

The proposed regulations provide guidance on the annual fee imposed on covered entities engaged in providing health insurance for United States health risks. Generally, each covered entity with aggregate net premiums written over $25 million in the calendar year immediately preceding the fee year (referred to in the proposed regulations as the data year) is liable for the annual fee due by September 30th of each fee year in an amount determined by the IRS under section 9010(b) and the proposed regulations.

II. Explanation of Terms

The proposed regulations define numerous terms used in section 9010 and in these regulations, including the following key terms:

A. Covered Entity

Section 9010(c)(1) provides that a covered entity is any entity that provides health insurance for any United States health risk during the fee year. The proposed regulations define the term *covered entity* to mean any entity with net premiums written for health insurance for United States health risks during the fee year that is (1) A health insurance issuer within the meaning of section 9832(b)(2); (2) a health maintenance organization within the meaning of section 9832(b)(3); (3) an insurance company that is subject to tax under part I or II of subchapter L, or that would be subject to tax under part I or II of subchapter L but for the entity being exempt from tax under section 501(a); (4) an insurer that provides health insurance under Medicare Advantage, Medicare Part D, or Medicaid; or (5) a non-fully insured multiple employer welfare arrangement (MEWA). Under section 9832(b)(2), the term health insurance issuer generally refers to any insurance company, insurance service, or insurance organization that is subject to State laws that regulate insurance within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA). Under section 9832(b)(3), the term health maintenance organization generally refers to an organization that is recognized or regulated under State or Federal law as a health maintenance organization.

As previously noted, the proposed regulations provide that a covered entity includes a MEWA within the meaning of section 3(40) of ERISA, to the extent that the MEWA is not a fully-insured MEWA, regardless of whether the MEWA is subject to regulation under State insurance law. In the case of a fully-insured MEWA, the MEWA is not a covered entity for purposes of section 9010 because, even though the MEWA receives premiums, it uses those premiums to pay an insurance company to provide the coverage being purchased. In this case, the insurance company is the covered entity because it, and not the MEWA, is providing health insurance. If the MEWA is not fully-insured, however, the MEWA is a covered entity for purposes of section 9010 to the extent that the premiums received by the MEWA are not used to pay an insurance company to provide the coverage being purchased (and are used instead by the MEWA to provide the health insurance itself). For example, if a MEWA received a $10,000 premium payment from a participating employer providing both major medical coverage and separate vision coverage for an individual participant, and the MEWA used $9,000 of that premium payment to pay the premium to cover such individual under a group insurance policy purchased from an insurance company and associated costs, and $1,000 to pay direct reimbursements under the vision plan and associated costs directly, then the MEWA would be treated as a covered entity only with respect to the $1,000 portion of the premium intended to pay the MEWA for providing the vision coverage itself.

The proposed regulations exclude certain other MEWAs from the definition of a covered entity in accordance with one of the exclusions from the MEWA reporting requirements administered by the Department of Labor (DOL). Specifically, the proposed regulations would exclude MEWAs that are exempt from reporting under 29 CFR 2520.101–2(c)(2)(ii)(B).[1] This section of the DOL regulations generally excludes a MEWA that provides coverage to the employees of two or more employers due to a change in control of businesses (such as a merger or acquisition) that occurs for a purpose other than to avoid the reporting requirements and does not extend beyond a limited time. This type of MEWA is excluded from the definition of covered entity because it is temporary in nature and exempt from DOL reporting requirements.

The proposed regulations provide that, solely for purposes of section 9010, an Entity Claiming Exception (ECE) is subject to the same regime addressing MEWAs. Therefore, under the proposed regulations, a fully insured ECE is excluded from the definition of covered entity, but a non-fully insured ECE is treated as a covered entity to the extent the ECE is not insured. An ECE is defined in 29 CFR 2520.101–2(b) as an entity that claims it is not a MEWA on the basis that the entity is established or maintained pursuant to one or more agreements that the Secretary of Labor finds to be collective bargaining agreements within the meaning of section 3(40)(A)(i) of ERISA and 29 CFR 2510.3–40.

Currently, in a number of States, entities have been established to make coverage for medical care available to high-risk individuals who may not have access to coverage in the open market. The Treasury Department and the IRS invite comments on the organization and structure of these entities, whether they would be considered covered entities under the general definition, and the extent to which they would qualify for exclusions under the proposed regulations.

B. Excluded Entities

1. Self-Insured Employer

Section 9010(c)(2)(A) excludes any entity that is a self-insured employer to the extent that such employer self-insures its employees' health risks. The proposed regulations define the term *self-insured employer* to mean an

[1] These final regulations were issued in 2003. In 2011, DOL proposed new regulations under these same sections. The analogous section in the 2011 proposed regulations that describes the MEWAs intended to be excluded from the definition of covered entity is also § 2520.101–2(c)(2)(ii)(B) (RIN 1210–AB51). *See* 76 FR 76222. If and when the DOL finalizes these proposed regulations, the Treasury Department and the IRS intend to apply the new provision (or any analogous provision if modified in the final rule).

employer that sponsors a self-insured medical reimbursement plan within the meaning of § 1.105–11(b)(1)(i) and (ii) of the Income Tax Regulations. This includes an arrangement in which an employer provides self-insured employee health benefits to former employees, such as retired employees, or provides self-insured employee health benefits through an organization described in section 501(c)(9) (a VEBA). The proposed regulations clarify that a self-insured plan may use a third party for administration and bookkeeping functions and still be considered self-insured if there is no shifting of risk to the third party as described in § 1.105–11(b)(1)(ii).

2. Governmental Entities

Section 9010(c)(2)(B) excludes any governmental entity. The proposed regulations define the term *governmental entity* to mean (1) The United States, (2) any State, (3) the District of Columbia, (4) any possession of the United States, (5) any political subdivision of any of the foregoing (as defined for purposes of section 103), (6) any Indian tribal government (as defined in section 7701(a)(40)) or a subdivision thereof (determined in accordance with section 7871(d)), or (7) any public agency that is created by a State or a political subdivision, organized as a nonprofit under State law, and contracts with the State to administer State Medicaid benefits through local providers or health maintenance organizations. *See* Joint Committee on Taxation, General Explanation of Tax Legislation Enacted by the 111th Congress, JCS–2–11 (March 2011) (JCT General Explanation) at 330.

A State health department or State insurance commission would be included within the meaning of governmental entity under section 9010. The proposed regulations do not include instrumentalities (within the meaning of Rev. Rul. 57–128, 1957–1 C.B. 311, see § 601.601(d)(2)(ii)(b)) of a governmental entity in the definition of governmental entity. Instrumentalities that provide health insurance may qualify for other exclusions under section 9010, such as the exclusion for employers that self-insure their employees' health risks (section 9010(c)(2)(A)), the exclusion for certain nonprofit corporations (section 9010(c)(2)(C)), and the partial exclusion for certain high-risk insurance pools described in section 501(c)(26) (section 9010(b)(2)(B)). The Treasury Department and the IRS invite comments on the types of instrumentalities, if any, that would be considered covered entities under the general definition and the extent to which they would qualify for exclusions consistent with the statute.

3. Certain Nonprofit Corporations

In accordance with section 9010(c)(2)(C), the proposed regulations exclude any entity that (1) Is incorporated as a nonprofit corporation under State law, (2) meets certain requirements designed to ensure that the net earnings of the entity are not distributed to private parties and that the entity does not engage in political campaign activity or substantial lobbying, and (3) receives more than 80 percent of its gross revenues from government programs that target low-income, elderly, or disabled populations under titles XVIII, XIX, and XXI of the Social Security Act (which include Medicare, Medicaid, the Children's Health Insurance Plan, and dual eligible plans). An entity is not required to be exempt from tax under section 501(a) to qualify for this exception. However, because the provisions of section 9010(c)(2)(C)(ii) relating to private inurement, lobbying, and political campaign activity are the same as those provisions applicable to organizations described in section 501(c)(3), for purposes of applying these requirements, the proposed regulations adopt the standards set forth under section 501(c)(3) and the regulations thereunder. In accordance with section 9010(c)(2)(C)(ii), the proposed regulations provide that, for an entity that is exempt from tax under section 501(a) and is described in section 501(h)(3), the determination of whether the entity has engaged in substantial lobbying for purposes of section 9010(c)(2)(C)(ii) will be made under section 501(h).

The Treasury Department and the IRS invite comments with respect to how this exclusion is applied.

4. Voluntary Employees' Beneficiary Associations (VEBAs)

In accordance with section 9010(c)(2)(D), the proposed regulations explicitly exclude any VEBA that is established by an entity other than an employer or employers for the purpose of providing health care benefits, such as a union. Also, if a MEWA or ECE provides health benefits through a VEBA, the VEBA is not a covered entity. Furthermore, if an employer or employers provide self-insured employee health benefits through a VEBA, the VEBA is not a covered entity because the exclusion for self-insured employers under section 9010(c)(2)(A) applies. If a VEBA purchases health insurance to cover the beneficiaries of the VEBA, the VEBA is not a covered entity because the issuer providing the health insurance that the VEBA purchases is the covered entity subject to the fee rather than the VEBA. Therefore, the Treasury Department and the IRS are not aware of any VEBAs that would be covered entities under the proposed regulations. The Treasury Department and the IRS invite comments on the types of VEBAs, if any, that do not fall within the exclusions and therefore would be covered entities.

5. Educational Institutions and Student Health Insurance

Many educational institutions establish or administer programs that provide students with access to health insurance. In most instances, however, the educational institution uses premiums it receives from students to purchase insurance from a separate, unrelated issuer. This unrelated issuer and not the educational institution will be a covered entity for purposes of section 9010 and it will include the premiums paid by or on behalf of those students for purposes of determining the amount payable under section 9010. The Treasury Department and the IRS invite comments on the circumstances, if any, under which an educational institution might qualify as a covered entity that is subject to the fee and not eligible for an exclusion (for example, a self-insured student health plan).

C. Controlled Groups

1. In General

The proposed regulations define the term *controlled group* as a group of two or more persons, including at least one person that is a covered entity, that are treated as a single employer under section 52(a), 52(b), 414(m), or 414(o). To clarify how to treat persons that leave or enter a controlled group, the proposed regulations provide that, for purposes of section 9010, a person is treated as a member of the controlled group if it is a member of the group at the end of the day on December 31st of the data year. In accordance with section 9010(c)(3), the proposed regulations treat a controlled group as a single covered entity for purposes of the fee. In determining net premiums written for health insurance for United States health risks of a controlled group, the controlled group generally must take into account the net premiums written for all members for the entire data year.

2. Designated Entities

The proposed regulations provide that each controlled group must have a *designated entity,* defined as a person within the controlled group that is

designated to act on behalf of the controlled group with regard to the fee. The proposed regulations further provide that if the controlled group, without regard to foreign corporations included under section 9010(c)(3)(B), is also an affiliated group that filed a consolidated return for Federal income tax purposes, the designated entity is the common parent of the affiliated group identified on the tax return filed for the data year. If the controlled group is not an affiliated group that files a consolidated return for Federal income tax purposes, it may select a person as the designated entity on Form 8963, ''Report of Health Insurance Provider Information.'' The proposed regulations require only the designated entity to report on behalf of the controlled group. However, the proposed regulations also require each member of a controlled group to maintain a record of its consent to the designated entity selection. The proposed regulations also require the designated entity to maintain a record of all member consents. If the controlled group does not select a person as a designated entity on its Form 8963, the IRS will select a person as a designated entity for the controlled group and advise the designated entity accordingly.

D. Health Insurance

1. In General

Section 9010 does not define health insurance, providing in section 9010(h)(3) only that health insurance does not include coverage only for accident, or disability income insurance, or any combination thereof as described in section 9832(c)(1)(A); coverage only for a specified disease or illness and hospital indemnity or other fixed indemnity insurance as described in section 9832(c)(3); insurance for long-term care; or Medicare supplemental health insurance (as defined in section 1882(g)(1) of the Social Security Act). The only definition of health insurance or health insurance coverage in the Code is the definition of health insurance coverage in section 9832(b)(1)(A) for purposes of Chapter 100. The language of section 9832(b)(1)(A) is substantially similar to the only definition of health insurance coverage referenced in the ACA.[2] Accordingly, the proposed regulations define the term *health insurance* by reference to section 9832(b)(1)(A) to mean benefits consisting of medical care (provided directly, through insurance, reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer. The proposed regulations exclude from the term health insurance all of the excepted benefits listed in section 9832(c) except for section 9832(c)(2)(A) (limited scope dental and vision benefits). In accordance with the explanation provided by the Joint Committee on Taxation, the proposed regulations include limited dental and vision coverage as health insurance for purposes of the fee. *See* JCT General Explanation at 331.

The proposed regulations also provide that, solely for purposes of section 9010, indemnity reinsurance is not health insurance. Thus, the fee continues to be imposed on the issuing company. For this purpose, the proposed regulations define the term *indemnity reinsurance* to mean an agreement between two or more insurance companies under which the reinsuring company agrees to accept and to indemnify the issuing company for all or part of the risk of loss under policies specified in the agreement, and the issuing company retains its liability to, and its contractual relationship with, the individuals whose health risks are insured under the policies specified in the agreement. No inference is intended as to whether indemnity reinsurance may constitute health insurance for other purposes.

2. Student Administrative Health Fee Arrangements

Many educational institutions have arrangements under which the educational institution, other than through an insured arrangement, charges student administrative health fees to students on a periodic basis to help cover the cost of student health clinic operations and care delivery (regardless of whether the student uses the clinic and regardless of whether the student purchases any available student health insurance coverage). These arrangements are different from premiums and cost-sharing for group health plans and health insurance coverage because all students pay the fee regardless of whether they have student health insurance. Therefore, these arrangements do not constitute health insurance for purposes of section 9010. For a similar conclusion regarding other Federal laws applicable to student health insurance, see Student Health Insurance Coverage, 77 FR 16453, 16455–56 (March 21, 2012) (Department of Health and Human Services regulations establishing requirements for student health insurance coverage under the Public Health Service Act and ACA).

3. Travel Insurance

The Treasury Department and the IRS are aware that certain travel insurance products may include limited health benefits. However, the term travel insurance does not have a definition for tax purposes and in other contexts has applied to a differing variety of products with different types of coverage, including some products providing only incidental health benefits. To assist in determining which types of travel-related insurance products provide health insurance for purposes of section 9010, the proposed regulations explicitly exclude *travel insurance,* defined as coverage for personal risks incident to planned travel, which may include, but is not limited to, interruption or cancellation of a trip or event, loss of baggage or personal effects, damages to accommodations or rental vehicles, and sickness, accident, disability, or death occurring during travel, provided that the health benefits are not offered on a stand-alone basis and are incidental to other coverage. For this purpose, travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting 6 months or longer, including, for example, those working overseas as an expatriate or military personnel being deployed. This definition is a modified version of the National Association of Insurance Commissioners (NAIC) definition of travel insurance.

4. Retiree-only Health Plans

The proposed regulations do not provide any special exceptions related to health insurance provided under a plan covering only retired employees. These types of arrangements are not subject to the requirements of Chapter 100 of the Code, not because they do not provide health insurance or because retiree-only coverage is an excepted benefit, but because of an exception in section 9831(a)(2) for group health plans having fewer than two current employees. This exception is not relevant in determining whether the insurance provided is health insurance for purposes of section 9010, which covers issuers of health insurance regardless of whether the insurance is provided under a group health plan. Therefore, health insurance provided under these arrangements is health insurance for purposes of section 9010. However, an employer providing

[2] *See* ACA section 1301(b)(2), referencing section 2791(b) of the Public Health Service Act (PHSA) (42 U.S.C. 300gg–91). The definition of health insurance coverage in section 2791(b) of the PHSA is substantially similar to the one provided in section 9832(b)(1)(A) of the Code.

coverage to former employees, such as retired employees, under a self-insured arrangement generally would qualify for the exclusion for self-insured employers. See section II.B.1 of this preamble.

E. Net Premiums Written

The fee each year is based on each covered entity's share of net premiums written for health insurance of United States health risks during the data year. Section 9010 does not define net premiums written. The proposed regulations define the term *net premiums written* to mean premiums written, including reinsurance premiums written, reduced by reinsurance ceded, and reduced by ceding commissions and medical loss ratio (MLR) rebates with respect to the data year. Because indemnity reinsurance is not considered health insurance for purposes of section 9010, net premiums written does not include premiums written for indemnity reinsurance (and is not reduced by indemnity reinsurance ceded). See section II.D.1 of this preamble. However, net premiums written does include premiums written (and excludes premiums ceded) for assumption reinsurance; that is, reinsurance for which there is a novation and the reinsurer takes over the entire risk pursuant to a new contract. Thus, for covered entities that file the Supplemental Health Care Exhibit (SHCE) with the NAIC, net premiums written for health insurance generally will equal the amount reported on the SHCE as direct premiums written minus MLR rebates with respect to the data year, subject to any applicable exclusions under section 9010 such as exclusions from the term health insurance. This definition of net premiums written for purposes of section 9010 differs from net adjusted premiums reported on the SHCE, which takes into account premiums from ceded and assumed reinsurance. Under current NAIC reporting rules, the amount reported as direct premiums written on the SHCE does not include ceding commissions, and thus there is no need to reduce direct premiums written for ceding commissions in determining net premiums written. However, the SHCE separately accounts for any expected reductions in premiums resulting from MLR rebates with respect to the data year. These amounts are subtracted from direct premiums written in determining net premiums written. The Treasury Department and the IRS invite comments on how to compute MLR rebates with respect to the data year using data reported on the SHCE.

F. United States Health Risk

In accordance with section 9010(d), the proposed regulations define the term *United States health risk* to mean the health risk of any individual who is (1) A United States citizen, (2) a resident of the United States (within the meaning of section 7701(b)(1)(A)), or (3) located in the United States, with respect to the period such individual is so located.

For purposes of determining whether an individual is located in the United States, the proposed regulations, in accordance with section 9010(h)(2), define the term *United States* to mean the 50 States, the District of Columbia, and any possession of the United States. The proposed regulations further define the term *located in the United States* to mean present in the United States under section 7701(b)(7) (for presence in the 50 States and the District of Columbia) or § 1.937–1(c)(3)(i) (for presence in a possession of the United States). Subject to certain exceptions, those rules generally treat an individual as present in the United States on any day if the individual is physically present in the United States at any time during such day.

Section 9010(d)(2) refers to ''resident of the United States (within the meaning of section 7701(b)(1)(A)).'' Under section 7701(b), the term United States means the 50 States and the District of Columbia, but it does not include the possessions of the United States. *See* section 7701(a)(9). Therefore, under the proposed regulations, this narrower definition of United States applies for determining who is a ''resident of the United States (within the meaning of section 7701(b)(1)(A)).'' Regardless of the narrower scope of resident of the United States, the Treasury Department and the IRS note that the term United States health risk includes the health risks of individuals in the possessions of the United States since they will either be United States citizens or considered as located in the United States.

Recognizing the unique characteristics of plans covering expatriates, the Treasury Department and the IRS seek specific comments on how the rules proposed in these regulations apply to such plans.

III. Reporting Requirements, Associated Penalties, and Disclosure

Section 9010(g)(1) requires each covered entity to report its net premiums written for health insurance for United States health risks during the data year. The proposed regulations require each covered entity, including each controlled group that is treated as a single covered entity, to annually report its net premiums written for health insurance of United States health risks during the data year to the IRS by May 1st of the fee year on Form 8963, ''Report of Health Insurance Provider Information,'' in accordance with the instructions for the form. A covered entity with net premiums written under the $25 million threshold is not liable for a fee but must still report its net premiums written. The proposed regulations authorize the IRS to provide rules for the manner of reporting (including reporting by designated entities on behalf of controlled groups) in other guidance published in the Internal Revenue Bulletin.

Section 9010(g)(2) imposes a penalty for failing to timely submit a report containing the required information unless the covered entity can show that the failure is due to reasonable cause. Section 9010(g)(3) imposes an accuracy-related penalty for any understatement of a covered entity's net premiums written. The proposed regulations clarify that these penalties are in addition to the fee.

Section 9010(g)(4) provides that section 6103 (relating to the disclosure of returns and return information) does not apply to any information reported by the covered entities under section 9010(g). The Treasury Department and the IRS are considering making available to the public the information reported on Form 8963, ''Report of Health Insurance Provider Information,'' including the identity of the covered entity and the amount of its net premiums written, at the time the notice of preliminary fee calculation is sent. The Treasury Department and the IRS invite comments on which reported information the IRS should make publicly available.

IV. Fee Calculation

Under section 9010 and the proposed regulations, the IRS will calculate a covered entity's fee based on the ratio of the covered entity's net premiums written that are taken into account to the total net premiums written taken into account of all covered entities. For each covered entity, the IRS will not take into account the first $25 million of net premiums written. The IRS will take into account 50 percent of the net premiums written for amounts over $25 million and up to $50 million and 100 percent of the net premiums written over $50 million. Thus, for any covered entity with net premiums written of $50 million or more, the IRS will not take into account the first $37.5 million of net premiums written. Also, because a

controlled group is treated as a single covered entity, this reduction applies, in the aggregate, to the net premiums written of the entire controlled group. Additionally, after this reduction, if the covered entity (or any member of a controlled group treated as a single covered entity) is exempt from tax by section 501(a) and is described in section 501(c)(3) (generally, a charity), (4) (generally, a social welfare organization), (26) (generally, a high-risk health insurance pool), or (29) (a consumer operated and oriented plan (CO–OP) health insurance issuer), the IRS will take into account only 50 percent of the remaining net premiums written of that entity (or member) that are attributable to its exempt activities. The proposed regulations further provide that, in the case of a controlled group, the IRS will not take into account any net premiums written of any member that is a nonprofit corporation meeting the requirements of § 57.2(b)(2)(iii) of the proposed regulations or a VEBA meeting the requirements of § 57.2(b)(2)(iv).

Under the proposed regulations, the IRS will determine net premiums written based on the reports submitted by covered entities and any other source of information available to the IRS. Most covered entities are expected to file the SHCE, which supplements the annual statement filed with the NAIC under applicable State law. For these covered entities, net premiums written for health insurance generally will equal the amount reported on that exhibit as direct premiums written minus MLR rebates with respect to the data year, subject to any applicable exclusions under section 9010 such as exclusions from the term ''health insurance.'' In addition to the SHCE, other sources of information that the IRS may use to determine net premiums written include the NAIC annual statement, the Accident and Health Policy Experience Exhibit filed with the NAIC, and the MLR Annual Reporting Form filed with the Center for Medicare & Medicaid Services' Center for Consumer Information and Insurance Oversight of the U.S. Department of Health and Human Services. The proposed regulations further provide that the entire amount reported on the SHCE as direct premiums written will be considered to be for United States health risks unless the covered entity can demonstrate otherwise. The Treasury Department and the IRS invite comments on this approach.

V. Notice of Preliminary Fee Calculation

The proposed regulations provide that the IRS will send each covered entity a notice of preliminary fee calculation each fee year that will include the covered entity's allocated fee; the covered entity's net premiums written for health insurance of United States health risks; the covered entity's net premiums written for health insurance of United States health risks taken into account after the application of § 57.4(a)(4); the aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities; and a reference to the error correction process set forth in other guidance published in the Internal Revenue Bulletin. The date by which the IRS will send the preliminary fee calculation notice will be specified in other guidance published in the Internal Revenue Bulletin.

VI. Error Correction Process

The proposed regulations establish an error correction process that allows a covered entity to submit error correction reports in response to the preliminary fee calculation for the IRS to consider before performing a final fee calculation. The IRS will specify in other guidance published in the Internal Revenue Bulletin the format for error correction report submissions and the date by which a covered entity must submit an error correction report. In the interest of providing finality to the fee calculation process, no additional error correction reports will be accepted after the end of the established error correction period.

VII. Notification of Final Fee Calculation and Payment

Section 9010(a) requires the annual fee to be paid by the annual date specified by the Secretary, but in no event later than September 30th of each fee year. The proposed regulations provide that the IRS will send each covered entity its final fee calculation for a fee year no later than August 31st of that fee year, and that the covered entity must pay the fee by September 30th by electronic funds transfer. This notification will include the covered entity's allocated fee, the covered entity's net premiums written for health insurance of United States health risks, the covered entity's net premiums written for health insurance of United States health risks taken into account after the application of § 57.4(a)(4), the aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities, and the final determination on the covered entity's error correction report.

Even if a covered entity did not file an error correction report, a covered entity's final fee may differ from a covered entity's preliminary fee because of information discovered about that covered entity through other information sources. In addition, a change in aggregate net premiums written for health insurance of United States health risks can affect each covered entity's fee because each covered entity's fee is a fraction of the aggregate fee collected from all covered entities.

There is no tax return to be filed with the payment of the fee.

VIII. Tax Treatment of Fee

Section 9010(f)(1) treats the fee for purposes of subtitle F of the Code (sections 6001–7874) as an excise tax to which only civil actions for refund apply. Thus, under the proposed regulations, the fee is treated as an excise tax for purposes of subtitle F to which the deficiency procedures of sections 6211 through 6216 do not apply. The proposed regulations require the IRS to assess the amount of the fee for any fee year within three years of September 30th of that fee year.

Section 9010(f)(2) treats the fee as a tax described in section 275(a)(6) (relating to taxes for which no deduction is allowed). The Treasury Department and the IRS received comments stating that covered entities may attempt to recover a large portion of the fee from policyholders, either by a corresponding increase in premiums or by separately charging policyholders for a portion of the fee. Some comments requested guidance that recovered fee amounts are excluded from the gross income of covered entities. The income tax treatment of recovered fee amounts is outside the scope of the proposed regulations. However, under section 61(a), gross income means all income from whatever source derived unless a provision of the Code or other law specifically excludes the payment from gross income. No exclusion provision applies to the recovered fee amount. Therefore, the covered entity's gross income includes fees recovered from policyholders, whether or not separately stated on any bill. The Treasury Department and the IRS invite comments on whether the text of the regulations should be revised to clarify that recovered fee amounts are included in a covered entity's gross income.

IX. Refund Claims

The proposed regulations require any claim for refund to be filed on Form 843, ''Claim for Refund and Request for Abatement.''

Proposed Effective/Applicability Date

These regulations are proposed to apply with respect to any fee that is due on or after September 30, 2014.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect large corporations. Thus, the Treasury Department and the IRS do not expect a substantial number of small entities to be affected. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before the proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Treasury Department and the IRS invite comments on all aspects of the proposed regulations. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 21, 2013, at 10:00 a.m., in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by June 3, 2013. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Charles J. Langley, Jr., Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 57

Health Insurance, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR chapter I is proposed to be amended by adding part 57 to subchapter D to read as follows:

PART 57—HEALTH INSURANCE PROVIDERS FEE

Sec.
57.0 Table of contents.
57.1 Overview.
57.2 Explanation of terms.
57.3 Reporting requirements and associated penalties.
57.4 Fee calculation.
57.5 Notice of preliminary fee calculation.
57.6 Error correction process.
57.7 Notification and fee payment.
57.8 Tax treatment of fee.
57.9 Refund claims.
57.10 Effective/applicability date.
57.6302–1 Method of paying the health insurance providers fee.

Authority: 26 U.S.C. 7805; sec. 9010, Pub. L. 111–148 (124 Stat. 119 (2010)).

Section 57.7 also issued under 26 U.S.C. 6302(a). Section 57.6302–1 also issued under 26 U.S.C. 6302(a).

§ 57.0 Table of contents.

This section lists the captions contained in §§ 57.1 through 57.10 and § 57.6302–1.

§ 57.1 Overview.
§ 57.2 Explanation of terms.
(a) In general.
(b) Covered entity.
(1) In general.
(2) Exclusions.
(i) Self-insured employer.
(ii) Governmental entity.
(iii) Certain nonprofit corporations.
(iv) Certain voluntary employees' beneficiary associations.
(3) State.
(c) Controlled groups.
(1) In general.
(2) Special rules.
(d) Data year.
(e) Designated entity.
(1) In general.
(2) Selection of designated entity.
(i) Choice of controlled group.
(ii) Requirement for affiliated groups; common parent.
(f) Fee.
(g) Fee year.
(h) Health insurance.
(1) In general.
(2) Exclusions.
(3) Student administrative health fee arrangement.
(4) Travel insurance.
(5) Reinsurance.
(i) Indemnity reinsurance.
(ii) Assumption reinsurance.
(i) Located in the United States.
(j) NAIC.
(k) Net premiums written.
(l) SHCE.
(m) United States.
(n) United States health risk.
§ 57.3 Reporting requirements and associated penalties.
(a) Reporting requirement.
(1) In general.
(2) Manner of reporting.
(b) Penalties.
(1) Failure to report.
(i) In general.
(ii) Amount.
(iii) Reasonable cause.
(iv) Treatment of penalty.
(2) Accuracy-related penalty.
(i) In general.
(ii) Amount.
(iii) Understatement.
(iv) Treatment of penalty.
(3) Controlled groups.
§ 57.4 Fee calculation.
(a) Fee components.
(1) In general.
(2) Calculation of net premiums written.
(3) Applicable amount.
(4) Net premiums written taken into account.
(i) In general.
(ii) Controlled groups.
(iii) Partial reduction for certain exempt activities.
(b) Determination of net premiums written.
(1) In general.
(2) Presumption for United States health risks.
(c) Determination of amounts taken into account.
(d) Allocated fee calculated.
§ 57.5 Notice of preliminary fee calculation.

(a) Content of notice.
(b) Timing of notice.
§ 57.6 Error correction process.
(a) In general.
(b) Time and manner.
§ 57.7 Notification and fee payment.
(a) Content of notice.
(b) Timing of notice.
(c) Differences in preliminary fee calculation and final calculation.
(d) Payment of final fee.
(e) Controlled groups.
§ 57.8 Tax treatment of fee.
(a) Treatment as an excise tax.
(b) Deficiency procedures.
(c) Limitation on assessment.
(d) Application of section 275.
§ 57.9 Refund claims.
§ 57.10 Effective/Applicability date.
§ 57.6302–1 Method of paying the health insurance providers fee.
(a) Fee to be paid by electronic funds transfer.
(b) Effective/Applicability date.

§ 57.1 Overview.

(a) The regulations in this part 57 are designated ''Health Insurance Providers Fee Regulations.''

(b) The regulations in this part 57 provide guidance on the annual fee imposed on covered entities engaged in the business of providing health insurance by section 9010 of the Patient Protection and Affordable Care Act (PPACA), Public Law 111–148 (124 Stat. 119 (2010)), as amended by section 10905 of PPACA, and as further amended by section 1406 of the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)) (collectively, the Affordable Care Act or ACA). All references to section 9010 in these proposed regulations are references to section 9010 of the ACA, as amended. Unless otherwise indicated, all other references to subtitles, chapters, subchapters, and sections are references to subtitles, chapters, subchapters and sections in the Internal Revenue Code and the related regulations.

(c) Section 9010(e)(1) sets an applicable fee amount for each year, beginning with 2014, that will be apportioned among covered entities with aggregate net premiums written over $25 million for health insurance for United States health risks. Generally, each covered entity is liable for a fee in each fee year that is based on its net premiums written during the data year in an amount determined by the Internal Revenue Service (IRS) under the rules of this part.

§ 57.2 Explanation of terms.

(a) *In general.* This section explains the terms used in this part for purposes of the fee.

(b) *Covered entity*—(1) *In general.* Except as provided under paragraph (c)(2) of this section, the term *covered entity* means any entity with net premiums written for health insurance for United States health risks in the fee year if the entity is—

(i) A health insurance issuer within the meaning of section 9832(b)(2), defined in section 9832(b)(2) to include an insurance company, insurance service, or insurance organization that is required to be licensed to engage in the business of insurance in a State and that is subject to the respective laws of such jurisdictions that regulate insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA));

(ii) A health maintenance organization within the meaning of section 9832(b)(3), defined in section 9832(b)(3)(A)–(C) to include—

(A) A Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act);

(B) An organization recognized under State law as a health maintenance organization; or

(C) A similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization;

(iii) An insurance company subject to tax under part I or II of subchapter L, or that would be subject to tax under part I or II of subchapter L but for the entity being exempt from tax under section 501(a);

(iv) An entity that provides health insurance under Medicare Advantage, Medicare Part D, or Medicaid; or

(v) A multiple employer welfare arrangement (MEWA), within the meaning of section 3(40) of ERISA, to the extent not fully insured, provided that for this purpose a covered entity does not include a MEWA that is excepted from reporting under 29 CFR 2520.101–2(c)(2)(ii)(B). Solely for purposes of the application of section 9010, an Entity Claiming Exception (defined in 29 CFR 2520.101–2(b)) is treated as a MEWA.

(2) *Exclusions*—(i) *Self-insured employer.* A covered entity does not include any entity that is a self-insured employer to the extent that such entity self-insures its employees' health risks. The term *self-insured employer* means an employer that sponsors a self-insured medical reimbursement plan within the meaning of § 1.105–11(b)(1)(i) of this chapter. Self-insured medical reimbursement plans include plans that do not involve shifting risk to an unrelated third party as described in § 1.105–11(b)(1)(ii) of this chapter. A self-insured plan may use an insurance company or other third party to provide administrative or bookkeeping functions.

(ii) *Governmental entity.* A covered entity does not include any governmental entity. For this purpose, the term *governmental entity* means—

(A) The United States;

(B) Any State or a political subdivision thereof (as defined for purposes of section 103) including, for example, a State health department or State insurance commission;

(C) Any Indian tribal government (as defined in section 7701(a)(40)) or a subdivision thereof (determined in accordance with section 7871(d)); or

(D) Any public agency that is created by a State or a political subdivision, organized as a nonprofit under State law, and contracts with the State to administer State Medicaid benefits through local providers or HMOs.

(iii) *Certain nonprofit corporations.* A covered entity does not include any entity—

(A) Which is incorporated as a nonprofit corporation under a State law;

(B) No part of the net earnings of which inures to the benefit of any private shareholder or individual (within the meaning of §§ 1.501(a)–1(c) and 1.501(c)(3)–1(c)(2) of this chapter);

(C) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (within the meaning of § 1.501(c)(3)–1(c)(3)(ii) of this chapter) (or which is described in section 501(h)(3) and is not denied exemption under section 501(a) by reason of section 501(h));

(D) Which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office (within the meaning of § 1.501(c)(3)–1(c)(3)(iii) of this chapter); and

(E) More than 80 percent of the gross revenues of which is received from government programs that target low-income, elderly, or disabled populations under titles XVIII, XIX, and XXI of the Social Security Act.

(iv) *Certain voluntary employees' beneficiary associations.* A covered entity does not include any entity that is described in section 501(c)(9) that is established by an entity (other than by an employer or employers) for purposes of providing health care benefits.

(3) *State.* Solely for purposes of paragraph (b) of this section, the term *State* means any of the 50 States, the District of Columbia, or any of the possessions of the United States,

including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

(c) *Controlled groups*—(1) *In general.* The term *controlled group* means a group of two or more persons, including at least one person that is a covered entity, that is treated as a single employer under section 52(a), 52(b), 414(m), or 414(o). A controlled group is treated as a single covered entity for purposes of the fee.

(2) *Special rules.* For purposes of paragraph (c)(1) of this section (related to controlled groups)—

(i) A foreign entity subject to tax under section 881 is included within a controlled group under section 52(a) or (b); and

(ii) A person is treated as being a member of the controlled group if it is a member of the group at the end of the day on December 31st of the data year.

(d) *Data year.* The term *data year* means the calendar year immediately before the fee year. Thus, for example, 2013 is the data year for fee year 2014.

(e) *Designated entity*—(1) *In general.* Each controlled group must have a designated entity. The term *designated entity* means the person within the controlled group that is designated to act on behalf of the controlled group regarding the fee with respect to— (i) Filing Form 8963, ''Report of Health Insurance Provider Information;''

(ii) Receiving IRS communications about the fee for the group;

(iii) Filing an error correction report for the group, if applicable, as described in § 57.6; and

(iv) Paying the fee for the group to the IRS.

(2) *Selection of designated entity*—(i) *In general.* Except as provided in paragraph (e)(2)(ii) of this section, the controlled group may select its designated entity by filing Form 8963, ''Report of Health Insurance Provider Information,'' in accordance with the form instructions. The designated entity must state under penalties of perjury that all persons that provide health insurance for United States health risks that are members of the group have consented to the selection of the designated entity. Each member of a controlled group is required to maintain a record of its consent to the controlled group's selection of the designated entity. The designated entity must maintain a record of all member consents. If a controlled group does not select a designated entity, the IRS will select the designated entity.

(ii) *Requirement for affiliated groups; common parent.* If the controlled group, without regard to foreign corporations included under section 9010(c)(3)(B), is also an affiliated group that files a consolidated return for Federal income tax purposes, the designated entity is the common parent of the affiliated group as identified on the tax return filed for the data year.

(f) *Fee.* The term *fee* means the fee imposed by section 9010 on each covered entity engaged in the business of providing health insurance.

(g) *Fee year.* The term *fee year* means the calendar year in which the fee must be paid to the government.

(h) *Health insurance*—(1) *In general.* Except as provided in paragraph (h)(2) of this section, the term *health insurance* has the same meaning as the term health insurance coverage in section 9832(b)(1)(A), defined to mean benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer. The term health insurance includes limited scope dental and vision benefits under section 9832(c)(2)(A) and retiree-only health insurance.

(2) *Exclusions.* Health insurance does not include—

(i) Coverage only for accident, or disability income insurance, or any combination thereof, within the meaning of section 9832(c)(1)(A);

(ii) Coverage issued as a supplement to liability insurance within the meaning of section 9832(c)(1)(B);

(iii) Liability insurance, including general liability insurance and automobile liability insurance, within the meaning of section 9832(c)(1)(C);

(iv) Workers' compensation or similar insurance within the meaning of section 9832(c)(1)(D);

(v) Automobile medical payment insurance within the meaning of section 9832(c)(1)(E);

(vi) Credit-only insurance within the meaning of section 9832(c)(1)(F);

(vii) Coverage for on-site medical clinics within the meaning of section 9832(c)(1)(G);

(viii) Other insurance coverage that is similar to the insurance coverage in paragraph (h)(2)(i) through (vii) of this section under which benefits for medical care are secondary or incidental to other insurance benefits, within the meaning of section 9832(c)(1)(H), to the extent such insurance coverage is specified in regulations under section 9832(c)(1)(H);

(ix) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof, within the meaning of section 9832(c)(2)(B), and such other similar, limited benefits to the extent such benefits are specified in regulations under section 9832(c)(2)(C);

(x) Coverage only for a specified disease or illness within the meaning of section 9832(c)(3)(A);

(xi) Hospital indemnity or other fixed indemnity insurance within the meaning of section 9832(c)(3)(B);

(xii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan, within the meaning of section 9832(c)(4);

(xiii) Student administrative health fee arrangements, as defined in paragraph (h)(3);

(xiv) Travel insurance, as defined in paragraph (h)(4) of this section; or

(xv) Indemnity reinsurance, as defined in paragraph (h)(5)(i) of this section.

(3) *Student administrative health fee arrangement.* For purposes of paragraph (h)(2)(xiii) of this section, the term *student administrative health fee arrangement* means an arrangement under which an educational institution, other than through an insured arrangement, charges student administrative health fees to students on a periodic basis to help cover the cost of student health clinic operations and care delivery (regardless of whether the student uses the clinic and regardless of whether the student purchases any available student health insurance coverage).

(4) *Travel insurance.* For purposes of paragraph (h)(2)(xiv) of this section, the term *travel insurance* means insurance coverage for personal risks incident to planned travel, which may include, but is not limited to, interruption or cancellation of trip or event, loss of baggage or personal effects, damages to accommodations or rental vehicles, and sickness, accident, disability, or death occurring during travel, provided that the health benefits are not offered on a stand-alone basis and are incidental to other coverage. For this purpose, travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting 6 months or longer, including, for example, those working overseas as an expatriate or military personnel being deployed.

(5) *Reinsurance*—(i) *Indemnity reinsurance.* For purposes of paragraphs (h)(2)(xv) and (k) of this section, the term *indemnity reinsurance* means an

agreement between two or more insurance companies under which—

(A) The reinsuring company agrees to accept and to indemnify the issuing company for all or part of the risk of loss under policies specified in the agreement; and

(B) The issuing company retains its liability to, and its contractual relationship with, the individuals whose health risks are insured under the policies specified in the agreement.

(ii) *Assumption reinsurance.* For purposes of paragraph (k) of this section, the term *assumption reinsurance* means reinsurance for which there is a novation and the reinsurer takes over the entire risk of loss pursuant to a new contract.

(i) *Located in the United States.* The term *located in the United States* means present in the United States (within the meaning of paragraph (m) of this section) under section 7701(b)(7) (for presence in the 50 States and the District of Columbia) or § 1.937–1(c)(3)(i) of this chapter (for presence in a possession of the United States).

(j) *NAIC.* The term *NAIC* means the National Association of Insurance Commissioners.

(k) *Net premiums written.* The term *net premiums written* means premiums written, including reinsurance premiums written, reduced by reinsurance ceded, and reduced by ceding commissions and medical loss ratio (MLR) rebates with respect to the data year. Because indemnity reinsurance within the meaning of paragraph (h)(5)(i) of this section is not health insurance under paragraph (h)(1) of this section, net premiums written does not include premiums written for indemnity reinsurance and is not reduced by indemnity reinsurance ceded. However, net premiums written does include premiums written and is reduced by premiums ceded for assumption reinsurance within the meaning of paragraph (h)(5)(ii) of this section.

(l) *SHCE.* The term *SHCE* means the Supplemental Health Care Exhibit. The SHCE is a form published by the NAIC that most covered entities are required to file annually under State law.

(m) *United States.* For purposes of paragraph (i) of this section, the term *United States* means the 50 States, the District of Columbia, and any possession of the United States, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

(n) *United States health risk.* The term *United States health risk* means the health risk of any individual who is—

(1) A United States citizen;

(2) A resident of the United States (within the meaning of section 7701(b)(1)(A)); or

(3) Located in the United States (within the meaning of paragraph (i) of this section) during the period such individual is so located.

§ 57.3 Reporting requirements and associated penalties.

(a) *Reporting requirement*—(1) *In general.* Annually, each covered entity, including each controlled group that is treated as a single covered entity, must report its net premiums written for health insurance of United States health risks during the data year to the IRS by May 1st of the fee year on Form 8963, ''Report of Health Insurance Provider Information,'' in accordance with the instructions for the form. A covered entity that has net premiums written for health insurance of United States health risks during the data year but does not have any amount taken into account as described in § 57.4(a)(4) is still subject to this reporting requirement.

(2) *Manner of reporting.* The IRS may provide rules in guidance published in the Internal Revenue Bulletin for the manner of reporting by a covered entity under this section, including rules for reporting by a designated entity on behalf of a controlled group that is treated as a single covered entity.

(b) *Penalties*—(1) *Failure to report*—(i) *In general.* If any covered entity fails to timely submit a report containing the information required by paragraph (a) of this section, the covered entity is liable for a penalty in the amount described in paragraph (b)(1)(ii) of this section in addition to its fee liability, unless the failure is due to reasonable cause as defined in paragraph (b)(1)(iii) of this section.

(ii) *Amount.* The amount of the penalty for failure to timely submit a report described in paragraph (b)(1)(i) of this section is equal to—

(A) $10,000, plus

(B) The lesser of—

(*1*) An amount equal to $1,000, multiplied by the number of days during which such failure continues; or

(*2*) The amount of the covered entity's fee for which the report was required.

(iii) *Reasonable cause.* The penalty for failure to timely submit a report described in paragraph (b)(1)(i) of this section is waived if the failure is due to reasonable cause. A failure will be due to a reasonable cause if the covered entity exercised ordinary business care and prudence and was nevertheless unable to submit the report within the prescribed time. In determining whether the covered entity was unable to timely submit the report described in paragraph (b)(1)(i) of this section despite the exercise of ordinary business care and prudence, the IRS will consider all the facts and circumstances surrounding the failure to submit the report.

(iv) *Treatment of penalty.* The failure to report penalty described in this paragraph (b)(1)—

(A) Is treated as a penalty under subtitle F;

(B) Must be paid on notice and demand by the IRS and in the same manner as a tax under the Internal Revenue Code; and

(C) Is a penalty for which only civil actions for refund under procedures of subtitle F apply.

(2) *Accuracy-related penalty*—(i) *In general.* If any covered entity understates its net premiums written for health insurance of United States health risks in the report required under paragraph (a)(1) of this section, the covered entity is liable for a penalty in the amount described in paragraph (b)(2)(ii) of this section in addition to its fee liability.

(ii) *Amount.* The amount of the accuracy-related penalty described in paragraph (b)(2)(i) of this section is equal to the excess of—

(A) The amount of the covered entity's fee for the fee year that the Secretary determines should have been paid in the absence of any understatement; over

(B) The amount of the covered entity's fee for the fee year that the Secretary determined based on the understatement.

(iii) *Understatement.* An understatement of a covered entity's net premiums written for health insurance of United States health risks is the difference between the amount of net premiums written that the covered entity reported and the amount of net premiums written that the covered entity should have reported.

(iv) *Treatment of penalty.* The accuracy-related penalty is subject to the provisions of subtitle F that apply to assessable penalties imposed under chapter 68.

(3) *Controlled groups.* Each person in a controlled group with an obligation to provide information to the controlled group's designated entity for purposes of the report required to be submitted by the designated entity on behalf of the controlled group is jointly and severally liable for any penalties described in this paragraph (b) for any reporting failures by the designated entity.

§ 57.4 Fee calculation.

(a) *Fee components*—(1) *In general.* For every fee year, the IRS will calculate

a covered entity's total fee as described in this section.

(2) *Calculation of net premiums written.* Each covered entity's allocated fee for any fee year is equal to an amount that bears the same ratio to the applicable amount as the covered entity's net premiums written for health insurance of United States health risks during the data year taken into account bears to the aggregate net premiums written for health insurance of United States health risks of all covered entities during the data year taken into account.

(3) *Applicable amount.* The applicable amounts for fee years are—

Fee year	Applicable amount
2014	$ 8,000,000,000
2015	11,300,000,000
2016	11,300,000,000
2017	13,900,000,000
2018	14,300,000,000
2019 and thereafter	The applicable amount in the preceding fee year increased by the rate of premium growth (within the meaning of section 36B(b)(3)(A)(ii)).

(4) *Net premiums written taken into account*—(i) *In general.* A covered entity's net premiums written for health insurance of United States health risks during any data year are taken into account as follows:

Covered entity's net premiums written during the data year that are:	Percentage of net premiums written taken into account is:
Not more than $25,000,000	0
More than $25,000,000 but not more than $50,000,000	50
More than $50,000,000	100

(ii) *Controlled groups.* In the case of a controlled group, paragraph (a)(4)(i) of this section applies to all net premiums written for health insurance of United States health risks during the data year, in the aggregate, of the entire controlled group, except that any net premiums written by any member of the controlled group that is a nonprofit corporation meeting the requirements of § 57.2(b)(2)(iii) or a voluntary employees' beneficiary association meeting the requirements of § 57.2(b)(2)(iv) are not taken into account.

(iii) *Partial reduction for certain exempt activities.* After the application of paragraph (a)(4)(i) of this section, if the covered entity is exempt from Federal income tax under section 501(a) and is described in section 501(c)(3), (4), (26), or (29), then only 50 percent of its remaining net premiums written for health insurance of United States health risks that are attributable to its exempt activities (and not to activities of an unrelated trade or business as defined in section 513) during the data year are taken into account.

(b) *Determination of net premiums written*—(1) *In general.* The IRS will determine net premiums written for health insurance of United States health risks based on the reports submitted by the covered entities, together with any other source of information available to the IRS. Other sources of information that the IRS may use to determine net premiums written include the SHCE, which supplements the annual statement filed with the NAIC pursuant to State law, the annual statement itself or the Accident and Health Policy Experience filed with the NAIC, the MLR Annual Reporting Form filed with the Center for Medicare & Medicaid Services' Center for Consumer Information and Insurance Oversight of the U.S. Department of Health and Human Services, or any similar statements filed with the NAIC, with any State government, or with the Federal government pursuant to applicable State or Federal requirements.

(2) *Presumption for United States health risks.* For any covered entity that files the SHCE with the NAIC, the entire amount reported as direct premiums written will be considered to be for United States health risks as described in § 57.2(k) (subject to any applicable exclusions for amounts that are not health insurance as described in § 57.2(g)(2)) unless the covered entity can demonstrate otherwise.

(c) *Determination of amounts taken into account.* (1) For each fee year and for each covered entity, the IRS will calculate the net premiums written for health insurance of United States health risks taken into account during the data year. The resulting number is the numerator of the ratio described in paragraph (d)(1) of this section.

(2) For each fee year, the IRS will calculate the aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities during the data year. The resulting number is the denominator of the ratio described in paragraph (d)(2) of this section.

(d) *Allocated fee calculated.* For each covered entity for each fee year, the IRS will calculate the covered entity's allocated fee by multiplying the applicable amount from paragraph (a)(3) of this section by a fraction—

(1) The numerator of which is the covered entity's net premiums written for health insurance of United States health risks during the data year taken into account (described in paragraph (c)(1) of this section); and

(2) The denominator of which is the aggregate net premiums written for health insurance of United States health risks for all covered entities during the data year taken into account (described in paragraph (c)(2) of this section).

§ 57.5 Notice of preliminary fee calculation.

(a) *Content of notice.* Each fee year, the IRS will make a preliminary calculation of the fee for each covered entity as described in § 57.4. The IRS will notify each covered entity of its preliminary fee calculation for that fee year. The notification to a covered entity of its preliminary fee calculation will include—

(1) The covered entity's allocated fee;

(2) The covered entity's net premiums written for health insurance of United States health risks;

(3) The covered entity's net premiums written for health insurance of United States health risks taken into account after the application of § 57.4(a)(4);

(4) The aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities; and

(5) A reference to the error correction procedures specified in guidance published in the Internal Revenue Bulletin.

(b) *Timing of notice.* The IRS will specify in other guidance published in the Internal Revenue Bulletin the date by which it will send each covered entity a notice of its preliminary fee calculation.

§ 57.6 Error correction process.

(a) *In general.* Upon receipt of its preliminary fee calculation, each covered entity will have an opportunity to review this calculation, identify any errors, and submit to the IRS an error correction report.

(b) *Time and manner.* The IRS will specify in other guidance published in the Internal Revenue Bulletin the format for error correction report submissions and the date by which a covered entity must submit an error correction report. The IRS will provide its final determination regarding the covered entity's error correction report no later than the time the IRS provides a covered entity with a final fee calculation.

§ 57.7 Notification and fee payment.

(a) *Content of notice.* Each fee year, the IRS will make a final calculation of the fee for each covered entity as described in § 57.4. The IRS will base its final fee calculation on the reports the covered entity provides as adjusted by the error correction process and other sources described in § 57.4(b)(1). The notification to a covered entity of its final fee calculation will include—

(1) The covered entity's allocated fee;

(2) The covered entity's net premiums written for health insurance of United States health risks;

(3) The covered entity's net premiums written for health insurance of United States health risks taken into account after the application of § 57.4(a)(4);

(4) The aggregate net premiums written for health insurance of United States health risks taken into account for all covered entities; and

(5) The final determination on the covered entity's error correction report, if any.

(b) *Timing of notice.* The IRS will send each covered entity a notice of its final fee calculation by August 31st of the fee year.

(c) *Differences in preliminary fee calculation and final calculation.* A covered entity's final fee calculation may differ from the covered entity's preliminary fee calculation because of changes made pursuant to the error correction process described in § 57.6 or because the IRS discovered additional information relevant to the fee calculation through other information sources as described in § 57.4(b)(1). Even if a covered entity did not file an error correction report described in § 57.6, a covered entity's final fee may differ from a covered entity's preliminary fee because of information discovered about that covered entity through other information sources. In addition, a change in aggregate net premiums written for health insurance of United States health risks can affect each covered entity's fee because each covered entity's fee is a fraction of the aggregate fee collected from all covered entities.

(d) *Payment of final fee.* Each covered entity must pay its final fee by September 30th of the fee year. For a controlled group, the payment must be made using the designated entity's EIN as reported on Form 8963, ''Report of Health Insurance Provider Information.'' The fee must be paid by electronic funds transfer as required by § 57.6302–1. There is no tax return to be filed with the payment of the fee.

(e) *Controlled groups.* In the case of a controlled group that is liable for the fee, all members of the controlled group are jointly and severally liable for the fee. Accordingly, if a controlled group's fee is not paid, the IRS may separately assess each member of the controlled group for the full amount of the controlled group's fee.

§ 57.8 Tax treatment of fee.

(a) *Treatment as an excise tax.* The fee is treated as an excise tax for purposes of subtitle F (sections 6001–7874). Thus, references in subtitle F to ''taxes imposed by this title,'' ''internal revenue tax,'' and similar references, are also references to the fee. For example, the fee is assessed (section 6201), collected (sections 6301, 6321, and 6331), enforced (section 7602), subject to examination and summons (section 7602), and subject to confidentiality rules (section 6103), in the same manner as taxes imposed by the Code.

(b) *Deficiency procedures.* The deficiency procedures of sections 6211–6216 do not apply to the fee.

(c) *Limitation on assessment.* The IRS must assess the amount of the fee for any fee year within three years of September 30th of that fee year.

(d) *Application of section 275.* The fee is treated as a tax described in section 275(a)(6) (relating to taxes for which no deduction is allowed).

§ 57.9 Refund claims.

Any claim for a refund of the fee must be made by the entity that paid the fee to the government and must be made on Form 843, ''Claim for Refund and Request for Abatement,'' in accordance with the instructions for that form.

§ 57.10 Effective/applicability date.

Sections 57.1 through 57.9 apply to any fee that is due on or after September 30, 2014.

§ 57.6302–1 Method of paying the health insurance providers fee.

(a) *Fee to be paid by electronic funds transfer.* Under the authority of section 6302(a), the fee imposed on covered entities engaged in the business of providing health insurance for United States health risks under section 9010 and § 57.4 must be paid by electronic funds transfer as defined in § 31.6302–1(h)(4)(i) of this chapter, as if the fee were a depository tax. For the time for paying the fee, see § 57.7.

(b) *Effective/Applicability date.* This section applies with respect to any fee that is due on or after September 30, 2014.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2013–04836 Filed 3–1–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2013–0002; Notice No. 133]

RIN 1513–AC00

Proposed Establishment of the Moon Mountain District Sonoma County Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 17,663-acre ''Moon Mountain District Sonoma County'' viticultural area in Sonoma County, California. The proposed viticultural area lies completely within the established Sonoma Valley viticultural area which, in turn, is within the multi-county North Coast viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: We must receive your comments on or before May 3, 2013.

ADDRESSES: Please send your comments on this notice to one of the following addresses (please note that TTB has a new address for comments submitted by U.S. mail):

- *Internet: http://www.regulations.gov* (via the online comment form for this notice as posted within Docket No. TTB–2013–0002 at ''Regulations.gov,'' the Federal e-rulemaking portal);

• *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; or

• *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments that TTB receives about this proposal at *http://www.regulations.gov* within Docket No. TTB–2013–0002. A link to that docket is posted on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 133. You also may view copies of this notice, all related petitions, maps, or other supporting materials, and any comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G St. NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

• Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;

• An explanation of the basis for defining the boundary of the proposed viticultural area;

• A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, and that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;

• A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and

• A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

Moon Mountain District Sonoma County Petition

TTB received a petition from Patrick L. Shabram on behalf of Christian Borcher, a representative of the vintners and grape growers in the proposed viticultural area, proposing the establishment of the ''Moon Mountain District Sonoma County'' viticultural area in northern California. The proposed viticultural area contains approximately 17,663 acres, of which 1,500 acres are dedicated to commercially-producing vineyards. The petition states that there are 11 bonded wineries and approximately 40 commercially-producing vineyards dispersed throughout the proposed viticultural area. According to the petition, the distinguishing features of the proposed viticultural area include its topography, geology, climate, and soils. Unless otherwise noted, all information and data referenced herein concerning the name, boundary, and distinguishing features of the proposed viticultural area are from the petition for the proposed Moon Mountain District Sonoma County viticultural area and its supporting exhibits.

TTB notes that the proposed Moon Mountain District Sonoma County viticultural area lies completely within the existing Sonoma Valley viticultural area (27 CFR 9.29), which, in turn, is entirely within the multi-county North Coast (27 CFR 9.30) viticultural area. The proposed viticultural area does not overlap with any other existing or proposed viticultural area.

Name Evidence

The proposed viticultural area is named for a particular mountain peak in the Mayacmas Mountains, known as Moon Mountain. According to the petition, the name ''Moon Mountain'' became officially associated with the region of the proposed viticultural area in 1957, when the Sonoma County Board of Supervisors renamed Goldstein Road as Moon Mountain Drive in response to a petition submitted by residents who lived and owned property along the road. The road's new name reflected the mountainous region's association with the adjacent valley known as the Valley of the Moon. Goldstein Road appears on the 1951 USGS map (Sonoma Quadrangle) that was included with the petition for the purposes of determining the boundary of the proposed viticultural area.

According to the USGS map, Goldstein Road does run through the proposed viticultural area, running eastward from the Valley of the Moon into the Mayacmas Mountains.

At the time Goldstein Road was renamed Moon Mountain Drive, there was no peak in the region officially designated as ''Moon Mountain.'' In 2007, residents along Moon Mountain Drive petitioned the USGS Board on Geographic Names to designate a particular unnamed peak near the easternmost end of the road as ''Moon Mountain,'' noting that several residents and businesses along the road incorporated the name ''Moon Mountain'' in the names of their homesteads and businesses and that ''logic suggests there should be a Moon Mountain nearby.'' The Board granted the petition and officially designated the peak ''Moon Mountain.'' Although the 1951 USGS map (Sonoma Quadrangle) does not show any peak labeled ''Moon Mountain,'' the current petition notes that Moon Mountain is located near Mount Pisgah, near the easternmost end of Moon Mountain Drive. Both Mount Pisgah and Goldstein Road/Moon Mountain Drive appear on the USGS map and are within the proposed viticultural area boundary. Additionally, a search of the United States Geographic Names Information System (USGNIS) does currently list a peak in Sonoma County named ''Moon Mountain.''

Several local businesses within the proposed viticultural area use the name ''Moon Mountain,'' including Moon Mountain Retreat, Moon Mountain Christmas Tree Farm, and Moon Mountain Studios. According to the petitioner, a number of businesses opened in the area between 1978 and 2004, incorporating ''Moon Mountain'' in their names. The Moon Mountain Christmas Tree Farm was established around 1978, the Moon Mountain Studios opened in 1994, and the Moon Mountain Retreat opened around 2004. The long-standing use of the name ''Moon Mountain'' by these businesses demonstrates that residents associated the name ''Moon Mountain'' with the area long before the peak was officially designated in 2007.

Because the USGNIS identifies nine other States that have peaks or locations known as ''Moon Mountain,'' the petitioner, after discussions with TTB, proposed the name ''Moon Mountain District Sonoma County,'' in order to distinguish the proposed viticultural area geographically and avoid possible consumer confusion with other locations known as ''Moon Mountain.''

Boundary Evidence

The proposed Moon Mountain District Sonoma County viticultural area is a long, narrow region covering approximately 17,663 acres on the western slopes of the Mayacmas Mountains. The proposed viticultural area extends from Sugarloaf Ridge in the north to the city of Sonoma in the south, and from the Valley of the Moon and Sonoma Valley in the west to the shared Sonoma/Napa county line in the east.

A series of lines drawn between marked points on the USGS map defines the northern portion of the proposed boundary and separates the proposed viticultural area from the steeper, more rugged slopes of Sugarloaf Ridge. The northern portion of the proposed boundary also approximates the point where the neighboring Valley of the Moon makes a distinct westward turn. According to the petition, this bend in the valley is an important feature because regions to the north of the bend are more influenced by breezes from the Pacific Ocean, whereas points south of the bend, including the proposed viticultural area, are more influenced by winds moving inland from San Pablo Bay.

The eastern portion of the proposed boundary follows the border between Sonoma and Napa Counties, along the ridgeline of the Mayacmas Mountains. The proposed boundary separates the west-facing slopes of the proposed viticultural area from the east-facing slopes on the opposite side of the ridge. Additionally, a portion of the proposed eastern boundary is shared with the western boundary of the established Mt. Veeder viticultural area (27 CFR 9.123), which is located on the eastern slopes of the Mayacmas Mountains in Napa County.

A series of lines drawn between features on the USGS map forms the southern portion of the proposed boundary. South of the proposed boundary, outside the proposed viticultural area, the terrain is marked by lower, rolling hills and flatlands that descend to the Napa Marsh along the shoreline of San Pablo Bay.

The western portion of the proposed boundary follows the 400-foot elevation contour line and the 600-foot elevation contour line to separate the steeper slopes and higher elevations of the proposed viticultural area from the lower, flatter terrain of the Valley of the Moon and Sonoma Valley.

Distinguishing Features

The distinguishing features of the proposed Moon Mountain District Sonoma County viticultural area are topography, geology, climate, and soils.

Topography

The proposed Moon Mountain District Sonoma County viticultural area is a mountainous region situated on the western slopes of the Mayacmas Mountains south of Sugarloaf Ridge. The slope angles of the proposed viticultural area are moderate, and elevations range from approximately 400 feet near the city of Sonoma, to the south and southwest, to 2,200 feet along the highest ridges near the shared Sonoma/Napa County line that forms the eastern boundary of the proposed viticultural area. The high elevations and moderate slope angles allow cool air to drain off the proposed viticultural area at night and into the adjoining Valley of the Moon and Sonoma Valley, reducing frost in the mountains during the late spring and early fall.

The terrain of the proposed viticultural area predominately faces to the west, allowing the vineyards to receive sunlight in the afternoon, when solar radiation is more intense and less likely to be blocked by fog. High levels of solar radiation cause grapes to accumulate sugars faster, ripen earlier, and retain less acid at harvest, so growers must account for solar radiation exposure when determining the optimal harvest period from their crops. (See ''An Introduction to Environmental Influences on Ripening in Grapes: Focus on Wine and Phenolics,'' by Julie M. Tarara and Jungmin Lee, United States Department of Agriculture, Agricultural Research Service, August 18, 2011.)

To the north of the proposed viticultural area, the mountain sides beyond Sugarloaf Ridge become too steep for commercial viticulture, with elevation changes of 1,100 feet in less than 900 feet of horizontal distance. To the east, the terrain of the established Mt. Veeder viticultural area is similar to that of the proposed viticultural area, but the easterly slope orientation of the Mt. Veeder viticultural area means the vineyards receive most of their sunlight during the morning, when solar radiation is less intense. To the south, the elevation gradually descends and the terrain is characterized by low hills and flatlands and then the wetlands of the Napa Marsh along the shores of San Pablo Bay. To the west are the lower, flatter floors of the Valley of the Moon and Sonoma Valley.

Geology

The geology of the proposed Moon Mountain District Sonoma County viticultural area is dominated by the Sonoma Volcanic Group, a series of extrusive igneous rock formations. Formations in this group are primarily

created from Pliocene andesitic and basaltic lava flows. Additional formations consist of rhyolite lava flows and ash mixed with andesitic and basaltic lava flows. As these rock formations weather over time, they form rocky soils that provide good drainage for vineyards.

To the immediate north of the proposed viticultural area, the geology is similar to that of the proposed viticultural area, but only at the lowest elevations. As the elevations to the north increase, the geology is dominated by the Franciscan Assemblage, which is composed of sedimentary and metamorphic rocks of the Jurassic and Cretaceous Periods, particularly serpentine rocks.

To the east of the proposed viticultural area, within the established Mt. Veeder viticultural area, the geology is characterized by the Great Valley Sequence. The Great Valley Sequence is comprised mainly of sedimentary rock from the Lower Cretaceous and Upper Jurassic Periods.

To the south of the proposed viticultural area, the geological formations are of the Huichica Formation. Rocks of this formation are sedimentary. Alluvial fan deposits and fluvial deposits from the Quaternary Period are also present in this region.

To the west of the proposed viticultural area, the floors of the Valley of the Moon and Sonoma Valley are dominated by alluvial and fluvial sediments and sedimentary rock formations.

Climate

The climate of the proposed Moon Mountain District Sonoma County viticultural area is moderated by coastal influences from two sources—the Pacific Ocean and San Pablo Bay. Breezes from the Pacific Ocean travel from the north across the Santa Rosa Plains and into the Valley of the Moon, which is adjacent to the western boundary of the proposed viticultural area. Coastal air from San Pablo Bay moves from the south across the Napa Marsh and into Sonoma Valley, which is adjacent to the southern and southwestern boundary of the proposed viticultural area.

Although cooling marine air and fog enters the proposed viticultural area from two directions, the climate of the proposed viticultural area is generally warmer than the surrounding area due to its inland location and higher elevations. Because the proposed Moon Mountain District Sonoma County viticultural area is located at the southern end of the Valley of the Moon and the northern end of Sonoma Valley, the marine breezes and fog from both the Pacific Ocean and San Pablo Bay are warmer and less intense by the time they reach the proposed viticultural area. Additionally, the higher elevation of the proposed viticultural area places it above most of the cooling marine fog, which is heaviest in the neighboring valleys.

The petition included a comparison of growing degree day [1] (GDD) accumulations from locations within the proposed viticultural area as well as from the regions to the northwest, west, and south. Data was not provided for areas to the immediate north and east of the proposed viticultural area. The data was gathered from weather stations from 2006 through 2010. TTB prepared the following table using data included in the petition.

Weather station site	Average growing degree days 2006–2010	Winkler classification region
Outside Proposed Viticultural Area:		
Santa Rosa[2] (Northwest)	1801	I
Bennett Valley viticultural area (West)	2096	I
Los Carneros viticultural area (South)	2269	I
Nicholson Ranch (South)	2811	II
PNA Vineyards (South)	2696	II
Within Proposed Viticultural Area:		
Rancho Salina	2964	II
Moon Mountain Feather	3326	III
Moon Mountain Barn	2908	III
Kamen Vineyards	3018	III

[2] Because data from 2006 was incomplete, the average GDD accumulation for Santa Rosa covers only 2007 through 2010.

The data in the table indicates that locations within the proposed Moon Mountain District Sonoma County have greater GDD accumulations than locations to the northwest and south. Three of the four proposed viticultural area vineyards in the table fall in the warm Region III category, and the fourth is within the moderately cool Region II. By contrast, three of the five locations outside the proposed viticultural area are classified in the very cool Region I. The regions to the northwest and south of the proposed viticultural area are closer to the Pacific Ocean and San Pablo Bay and receive more of the cooling marine breezes, and the locations to the west are at lower elevations and are more affected by marine fog. High GDD accumulations make the proposed viticultural area suitable for the growing warmer weather Zinfandel grapes, which are not commonly grown in the cooler surrounding regions.

The petition also compared the lowest growing season temperatures recorded at four vineyards within the proposed viticultural area to those of two vineyard locations outside the proposed viticultural area to the south and southwest in the adjacent Sonoma Valley. Data was not available for the surrounding regions to the north and east. The data was collected in April and October during 2009 and 2010. The two months were chosen because temperatures generally fall to their lowest points at the beginning and end of the growing season.

[1] In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDD, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth (''General Viticulture,'' by Albert J. Winkler, University of California Press, 1974, pages 61–64).

Station	Elevation (feet)	2009		2010	
		April	October	April	October
Within proposed viticultural area:					
Rancho Salina	([1])	36.3	43.3	35.3	45.5
Moon Mountain Feather	1,500	34.6	40.6	34.8	46.1
Moon Mountain Barn	1,050	33.4	37.7	33.9	43.3
Kamen Vineyards	1,000–1,300	34.6	39.3	35.4	44.7
Outside proposed viticultural area:					
Nicholson Ranch	185	29.3	37.2	33.3	([1])
PNA Vineyard	25	33.3	([1])	33.3	31.7

[1] Not available.

As shown in the table, the lowest temperatures recorded for the four vineyards within the proposed Moon Mountain District Sonoma County viticultural are generally warmer than those of the two vineyards outside the proposed viticultural area. According to the petition, the warmer temperatures can be attributed to the higher elevations of the proposed viticultural area. At night, the heavier cool air drains off the higher elevations and settles in the lower elevations of the neighboring Valley of the Moon and Sonoma Valley, lowering the valleys' temperatures. Warmer temperatures at the beginning of the growing season promote bud break and reduce the risk of frost damage to tender new growth, and warmer temperatures at the end of the growing season allow more maturation time for the fruit.

Soils

The soils of the proposed Moon Mountain District Sonoma County viticultural area are primarily derived from volcanic rock. Soils derived from sedimentary rock, including alluvium from sedimentary sources, make up less than one half of one percent of the soils of the proposed viticultural area. The following table lists the various soil series found within the proposed viticultural area.

Soil series	Acreage within proposed viticultural area	Percent of total viticultural area
Goulding	6,150	36.55
Goulding	*3,521*	*23.40*
Goulding Toomes Complex	*2,629*	*15.62*
Rock Land	3,937	23.4
Red Hill	2,923	17.37
Spreckels	1,478	8.78
Forward	1,242	7.38
Laniger	717	4.26
Cohasset	110	0.65
Toomes	83	0.50
Raynor	59	0.35
Suther	58	0.35
Huichica	28	0.17
Kidd	18	0.11
Clear Lake	16	0.09
Henneke	6	0.03
Other (quarries)	3	0.02
TOTAL	16,827	100

The most common soils within the proposed viticultural area are Goulding series soils, including Goulding Toomes Complex soils. These soils are described in the petition as dark brown soils of volcanic origin. Red Hills soils, the second-most common soil series within the proposed viticultural area, are similar in appearance to Goulding soils and are also derived from volcanic sources. Rock Land soils are found at high elevations and are described as ryholithic tuff rock covered with light colored soils, including Forward, Kidd, and Laniger series soils. Small amounts of Rock Land soils are also found at lower elevations within the proposed viticultural area, primarily as a result of weathering of material from the higher ridges. Spreckels and Forward series soils have similar grayish-brown coloring and are both found on hills and slopes with tuff sediment. All of these volcanic soils are described as thin, well drained, loamy soils. According to the petition, thin, well drained soils prevent the roots of the vines from penetrating deeply and result in greater stress on the vine and less vigorous growth. Less vigorous growth leads to smaller fruit yields, but the flavors of the grapes are highly concentrated.

To both the north and east of the proposed Moon Mountain District Sonoma County viticultural area, the soils are primarily sedimentary in origin. These soils are derived from shale and sandstone, which are not present within the proposed Moon Mountain District Sonoma County viticultural area. To the south and west, in the Valley of the Moon and Sonoma Valley, the soils are predominately alluvial, including Hire, Huichica, and Tuscan series.

Comparison of the Proposed Moon Mountain District Sonoma County Viticultural Area to the Existing Sonoma Valley and North Coast Viticultural Areas

Sonoma Valley Viticultural Area

The Sonoma Valley viticultural area was established by T.D. ATF–96, which was published in the **Federal Register** on December 4, 1981 (46 FR 59238). It

is located in southeastern Sonoma County, California, and contains both valleys and upland terrain. The Sonoma Valley viticultural area is bordered by the Santa Rosa Plain to the north, San Pablo Bay to the south, the Sonoma Mountains to the west, and the Sonoma/Napa County line, along the ridge of the Mayacmas Mountains, to the east. At the center of the viticultural area are the Valley of the Moon and Sonoma Valley which, according to the current petition, are often collectively referred to as ''Sonoma Valley.'' T.D. ATF–96 states that the Sonoma Valley viticultural area is shielded from the heat of California's Central Valley, to the east, by the Mayacmas Mountains. The Sonoma Mountains, to the west, prevent heavy marine fog from intruding into most of the viticultural area while still allowing cool breezes and lighter fogs to penetrate the area. The protected nature of the viticultural area leads to moderate summer and winter temperatures that distinguish it from the surrounding regions.

The proposed Moon Mountain District Sonoma County viticultural area is located entirely within the eastern portion of the Sonoma Valley viticultural area, along the western slopes of the Mayacmas Mountains. A portion of the proposed viticultural area's eastern boundary is shared with the eastern boundary of the Sonoma Valley viticultural area. Like the Sonoma Valley viticultural area, the proposed viticultural area benefits from the moderating effect of cool breezes and light fogs from both the Pacific Ocean and San Pablo Bay and is protected from the heaviest marine intrusion by the Sonoma Mountains. However, the proposed Moon Mountain District Sonoma County viticultural area is comprised entirely of moderately steep mountain slopes, whereas the Sonoma Valley viticultural area also contains the lower, flatter Valley of the Moon and Sonoma Valley. Additionally, the alluvial soils that are prevalent in the lowland portions of the Sonoma Valley viticultural area are scarce within the proposed viticultural area, which primarily contains volcanic soils.

North Coast Viticultural Area

The North Coast viticultural area was established by T.D. ATF–145, which was published in the **Federal Register** on September 21, 1983 (48 FR 42973). It includes all or portions of Napa, Sonoma, Mendocino, Solano, Lake, and Marin Counties, California. TTB notes that the North Coast viticultural area contains all or portions of approximately 40 established viticultural areas, in addition to the area covered by the proposed Moon Mountain District Sonoma County viticultural area. In the conclusion of the ''Geographical Features'' section of the preamble, T.D. ATF–145 states that ''[d]ue to the enormous size of the North Coast, variations exist in climatic features such as temperature, rainfall, and fog intrusion.''

The proposed Moon Mountain District Sonoma County viticultural area shares the basic viticultural feature of the North Coast viticultural area: the marine influence that moderates growing season temperatures in the area. However, the proposed viticultural area is much more uniform in its geography, geology, climate, and soils than the diverse multicounty North Coast viticultural area. In this regard, TTB notes that T.D. ATF–145 specifically states that ''approval of this viticultural area does not preclude approval of additional areas, either wholly contained with the North Coast, or partially overlapping the North Coast,'' and that ''smaller viticultural areas tend to be more uniform in their geographical and climatic characteristics, while very large areas such as the North Coast tend to exhibit generally similar characteristics, in this case the influence of maritime air off of the Pacific Ocean and San Pablo Bay.'' Thus, the proposal to establish the Moon Mountain District Sonoma County viticultural area is not inconsistent with what was envisioned when the North Coast viticultural area was established.

TTB Determination

TTB concludes that the petition to establish the 17,663-acre Moon Mountain District Sonoma County viticultural area merits consideration and public comment, as invited in this notice.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and TTB lists them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If TTB establishes this proposed viticultural area, its name, ''Moon Mountain District Sonoma County,'' will be recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using ''Moon Mountain District Sonoma County'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. The approval of the proposed Moon Mountain District Sonoma County viticultural area would not affect any existing viticultural area, and any bottlers using ''Sonoma Valley'' or ''North Coast'' as an appellation of origin or in a brand name for wines made from grapes grown within the Sonoma Valley or North Coast viticultural areas would not be affected by the establishment of this new viticultural area. The establishment of the Moon Mountain District Sonoma County viticultural area would allow vintners to use ''Moon Mountain District Sonoma County,'' ''Sonoma Valley,'' and ''North Coast'' as appellations of origin for wines made from grapes grown within the Moon Mountain District Sonoma County viticultural area if the wines meet the eligibility requirements for the appellation.

On the other hand, TTB does not believe that any single part of the proposed viticultural area name standing alone, that is, ''Moon Mountain,'' ''Moon Mountain District,'' or ''Sonoma County,'' would have viticultural significance in relation to this proposed viticultural area because: (1) according to the USGNIS, the ''Moon Mountain'' area name refers to 22 locations, including 14 mountain peaks in 9 States, so TTB believes that a determination of ''Moon Mountain'' or ''Moon Mountain District'' as terms of viticultural significance could lead to consumer and industry confusion and should be avoided; and (2) ''Sonoma County,'' standing alone, is already a term of viticultural significance under 27 CFR 4.39(i)(3), which states that ''[a] name has viticultural significance * * * when it is the name of a state or county * * *.'' Therefore, the proposed part 9 regulatory text set forth in this document specifies only ''Moon Mountain District Sonoma County'' as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other

conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with a viticultural area name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name or other term of viticultural significance that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed viticultural area. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, topography, soils, climate, and other required information submitted in support of the petition. In addition, given the proposed Moon Mountain District Sonoma County viticultural area's location within the existing North Coast and Sonoma Valley viticultural areas, TTB is interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates it from the existing North Coast and Sonoma Valley viticultural areas. TTB is also interested in comments on whether the geographic features of the proposed viticultural area are so distinguishable from the surrounding North Coast and Sonoma Valley viticultural areas that the proposed Moon Mountain District Sonoma County viticultural area should no longer be part of those viticultural areas. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Moon Mountain District Sonoma County viticultural area on wine labels that include the term ''Moon Mountain District Sonoma County'' as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the viticultural area.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this notice within Docket No. TTB–2013–0002 on ''Regulations.gov,'' the Federal e-rulemaking portal, at *http://www.regulations.gov*. A direct link to that docket is available under Notice No. 133 on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml*. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the ''Help'' tab at the top of the page.
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 133 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

Your comment must clearly state if you are commenting on your own behalf or on behalf of an organization, business, or other entity. If you are commenting on behalf of an organization, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the ''Organization'' blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and you may view, copies of this notice, selected supporting materials, and any electronic or mailed comments TTB receives about this proposal. A direct link to that docket is available on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 133. You may also reach the docket containing this notice and the posted comments received on it through the Regulations.gov search page at *http://www.regulations.gov*.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact TTB's information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by

Executive Order 12866. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this proposed rule.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.____ to read as follows:

§ 9.____ Moon Mountain District Sonoma County.

(a) *Name.* The name of the viticultural area described in this section is ''Moon Mountain District Sonoma County''. For purposes of part 4 of this chapter, ''Moon Mountain District Sonoma County'' is a term of viticultural significance.

(b) *Approved maps.* The four United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Moon Mountain District Sonoma County viticultural area are titled:

(1) Rutherford, Calif., 1951, photorevised 1968;

(2) Sonoma, Calif., 1951, photorevised 1980;

(3) Glen Ellen, Calif., 1954, photorevised 1980;

(4) Kenwood, Calif., 1954, photorevised 1980; and

(c) *Boundary.* The Moon Mountain District Sonoma County viticultural area is located in Sonoma County, California. The boundary of the Moon Mountain District Sonoma County viticultural area is as follows:

(1) The beginning point is on the Rutherford map at the 2,188-foot elevation point located on the Sonoma-Napa County boundary line in section 26, T7N/R6W. From the beginning point, proceed southerly along the meandering Sonoma-Napa County boundary line, crossing onto the Sonoma map, to intersection of the county line and Lovall Valley Road, Huichica Land Grant; then

(2) Continue along the Sonoma-Napa County boundary line approximately 0.2 mile to the intersection of the county line and the end of an unnamed light-duty road; then

(3) Proceed southwesterly in a straight line approximately 1.2 miles, passing through the marked 692-foot peak, to the intersection of the line with an unnamed light-duty road known locally as Thornsberry Road; then

(4) Proceed north-northwesterly in a straight line approximately 1 mile to the intersection of two unnamed light-duty roads known locally as Castle Road and Bartholomew Road (marked by the 218-foot elevation point); then

(5) Proceed west in a straight line approximately 1.4 miles, passing through the southern-most quarry marked on Schocken Hill, to the intersection of the line with the 400-foot elevation line, Pueblo Lands of Sonoma; then

(6) Proceed northwesterly along the meandering 400-foot elevation line for approximately 7.4 miles, crossing onto the Glen Ellen map and then the Kenwood map, to the intersection of the contour line with Nelligan Road, near the mouth of Nunns Canyon, T6N/R6W; then

(7) Proceed northerly on Nelligan Road approximately 0.6 miles to the intersection of the road with the 600-foot elevation line; then

(8) Proceed northwest along the 600-foot elevation line approximately 1.8 miles to its second intersection with a marked trail (near a marked quarry and approximately 0.2 mile southeasterly of a marked 973-foot peak), Los Guilicos Land Grant; then

(9) Proceed east-northeasterly in a straight line approximately 0.8 miles to the marked 1,483-foot peak; then

(10) Proceed east-southeasterly in a straight line approximately 1.5 miles, crossing onto the Rutherford map, returning to the beginning point.

Signed: February 26, 2013.

Mary G. Ryan,

Acting Administrator.

[FR Doc. 2013–04905 Filed 3–1–13; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 67

[Docket No. USCG–2010–0990]

RIN 1625–AB56

Vessel Documentation Renewal Fees

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations to separately list an annual fee for renewals of endorsements upon the Certificate of Documentation. The Coast Guard is required to establish user fees for services related to the documentation of vessels. This proposed rule would separately list a fee of $26 to cover the current costs of the vessel documentation services provided by the Coast Guard.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before May 3, 2013 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG 2010–0990 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.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mary Jager, CG–DCO–832, Coast Guard, telephone 202–372–1331, email *Mary.K.Jager@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 Contents for Preamble

I. Public Participation and Request for Comments
A. Submitting Comments
B. Viewing Comments and Documents
C. Privacy Act
D. Public Meeting
II. Abbreviations
III. Background
IV. Discussion of Proposed Rule
V. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. 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.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0990), 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 or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone 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* and type ''USCG–2010–0990'' in the ''Keyword'' box. 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 us, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. 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* and insert ''USCG–2010–0990'' in the ''Search'' box. Click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the Internet, you may view the docket online by visiting 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

C. 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).

D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the docket using one of the methods specified under **ADDRESSES**. In your request, explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register** (FR).

II. Abbreviations

CFR Code of Federal Regulations
COD Certificate of Documentation
DHS Department of Homeland Security
FR Federal Register
MISLE Marine Safety Information Law Enforcement
NEPA National Environmental Policy Act of 1969
NTTAA National Technology Transfer and Advancement Act
NVDC National Vessel Documentation Center
OMB Office of Management and Budget
§ Section symbol
SBA Small Business Administration
U.S.C. United States Code

III. Background

The Omnibus Budget Reconciliation Act of 1990 (the ''Act'') (Pub. L. 101–508, § 10401, Nov. 5, 1990, 104 Stat. 1388), codified at 46 U.S.C. 2110, requires that the Coast Guard establish user fees for Coast Guard vessel documentation services. In establishing these fees, we are required to use the criteria found in 31 U.S.C. 9701, including, among other things, that the fees be fair, be based on the costs to the government, and reflect the value of the service or thing to the recipient, the public policy or interest served. See 31 U.S.C. 9701(b). We also set fees at an amount calculated to achieve recovery of the costs to the Federal Government of providing the service in a manner consistent with the general user charges principles set forth in OMB Circular A–25. Under that OMB Circular, each recipient should pay a reasonable user charge for Federal Government services, resources, or goods from which he or she derives a special benefit, at an amount sufficient for the Federal Government to recover the full costs of providing the service, resource, or good. See OMB Circular A–25, sec. 6(a)(2)(a).

We last promulgated our user fees for vessel documentation services on November 15, 1993 (58 FR 60256), found at 46 CFR part 67, subpart Y-Fees. The fees reflect the Coast Guard's program costs for 1993. Since then, these costs have increased. The existing fees do not cover the operating and overhead costs associated with our vessel documentation and recording activities under 46 U.S.C. chapters 121 and 313. This rule proposes to update those fees.

Specifically, this rule proposes to charge a separate annual fee for renewals of endorsements upon a Certificate of Documentation (COD). A COD is required for the operation of a vessel in certain trades, serves as evidence of vessel nationality, and permits a vessel to be subject to preferred mortgages. 46 CFR 67.1. The proposed COD renewal fee would more accurately reflect the Coast Guard's current operating and overhead costs associated with providing these discrete services. While we previously included the cost of providing annual COD renewals as part of its overhead costs, the fees collected in relation to these costs do not nearly cover our operating and overhead costs associated with providing annual COD renewal services. Therefore, the we to break out and separately charge an annual renewal fee (shown in Table 67.550-Fees) to cover the cost of providing the required annual COD renewal services.

The Coast Guard's fiscal year 2010 review of vessel documentation user charges, ''Vessel Documentation Biennial User Fee Review,'' is available in the docket where indicated under the ''Public Participation and Request for Comments'' section in this preamble. The Biennial User Fee Review

recommended establishment of an annual fee for COD renewals. It also recommended establishment of a fee for resubmittals of requests for services such as applications, determinations, waivers, etc. We have elected not to pursue the latter recommendation at this time, but will consider this fee in future studies and possibly in future rulemaking actions.

Presently, we charge several other fees associated with vessel documentation and we anticipate that further review (as required by OMB Circular Number A–25) of these fees and the cost of service will result in additional proposed adjustments to reflect changes in cost and provision of services. Any of these additional proposed adjustments would be the subject of a separate rulemaking.

IV. Discussion of Proposed Rule

Through this proposed rule, the Coast Guard would revise 46 CFR 67.515 to provide for a $26 fee for annual renewals of endorsements upon the COD and to explain that the late fee, which is an existing fee, is in addition to the annual COD renewal fee. The proposed fee is less than the average annual fee charged by states for similar activities leading to vessel registration. Furthermore, the proposed fee is less than the annual fee for recreational vessels authorized by Congress for collection in 1993 and 1994. During those years, an annual fee for recreational vessels was instituted with fees ranging from $35 to $100. See Public Law 102–582, Title V, § 501(a), Nov. 2, 1992, 106 Stat. 4909.

We also propose removing and reserving paragraph (b) in 46 CFR 67.500, because it states that there is no fee for annual renewal of endorsements upon the COD. Lastly, we propose to amend the fee table in 46 CFR 67.550 to include the annual COD renewal fee.

We propose the annual COD renewal fee to increase collections by the amounts authorized so that the fees we charge would more accurately reflect the actual costs to the Coast Guard of providing the annual COD renewal services. We estimate that this proposed fee would generate an additional $6.1 million annually. The additional collections generated through the annual COD renewal fee should offset the costs of providing these services.

According to the Vessel Documentation Biennial User Fee Review, which can be found in the Docket for this rulemaking, the full cost of vessel documentation services for fiscal year 2009 was $11.3 million, while total fees collected totaled $5.3 million, as shown in Table 1. Fees are currently collected for 22 activities associated with vessel documentation that are listed in Table 67.550 of 46 CFR part 67. Currently, no separate fee is collected to cover the cost of processing annual COD renewals; that fee was included as overhead in other fees. The Biennial Review concluded that a minimal fee for annual COD renewals based on the full cost of providing that specific service would reliably decrease or eliminate the collections gap.

TABLE 1—NVDC COSTS AND FEES COLLECTED, 2009

[In millions]

Full cost	Fees collected	Renewal fees collected	Difference
($11.30)	$5.30	$0.00	($6.00)

In 2011, we conducted a comprehensive study to more accurately calculate the costs involved with the annual COD renewal process. Our ''Full Cost Study for Renewal of Endorsements on Certificates of Documentation'' focuses on the cost of annual COD renewals, updates the cost figures, and includes costs for the additional activities required to process collections. The cost study is available in the docket where indicated under the ''Public Participation and Request for Comments'' section in the preamble.

The average number of annual renewals for 2006–2010 was 235,000. The renewals accounted for approximately 65,000 commercial and 200,000 recreational vessels documented by the Coast Guard in 2010. Under this proposed rule, we anticipate that the cost for processing annual COD renewals and their associated fees would be approximately $6 million, as shown in Table 2. The full cost to provide the annual renewal service shown in Table 2 includes directly traced personnel costs calculated from timed activities, allocated personnel costs based on costs associated with personnel directly involved and in supporting roles, and other costs such as operating and administrative costs, facilities, and information systems costs.

Since COD renewal and collection services are provided with enough frequency, a reliable estimate of the average time involved was calculated. Personnel cost is calculated based on an hourly rate that represents the cost per hour or part thereof per employee. The employee cost is based on hourly rates found in COMDTINST 7310.1M, Coast Guard Reimbursable Standard Rates, available at *http://uscg.mil/directives/ci/7000-7999/CI_7310_1M.PDF.* The National Vessel Documentation Center (NVDC) anticipates that the method for collecting fees will be similar to the current process for late renewals, with some additional activities for processing the payment (collections) in accordance with U.S. law and federal guidance.[1] The total annual cost to operate the NVDC annual COD renewal program and collect fees is approximately $6 million; the proposed fee reflects this cost, and should close the current gap identified in the Biennial Review.

To calculate the annual renewal fee, we divided the total annual costs associated with the renewal program by the average number of annual renewals. The directly traced personnel costs are for those activities that were included in a timed study. These activities represent a small, mostly automated portion of the full process. The allocated personnel costs are other direct and indirect personnel costs that could not be included in the time study due to complexity of activities. Some of this cost is based on additional steps necessary to process applications with payments, which, at least initially, will be a manual rather than automated process. Other costs are non-personnel operating and are also allocated costs. The allocated cost is based on a percent of standard personnel costs for positions based on relative volume of renewals produced. Table 2 shows these costs.

[1] The Department of the Treasury publishes regulations and guidance for federal agency management of receipts (31 CFR part 206 and the Treasury Financial Manual (*www.fms.treas.gov/tfm/index.html*)).

TABLE 2—COST INPUTS FOR RENEWAL FEE

	Total cost	Average number of renewals per year	Cost per renewal
Directly traced Personnel Costs	$2,044,500	235,000	$8.70
Allocated Personnel Costs	1,695,799	235,000	7.21
Other Costs	2,157,209	235,000	9.17
Total	5,898,508	235,000	25.08

Note: These numbers may not total due to rounding.

This total cost to the Coast Guard is shown by the following equation: the total cost divided by the average number of renewals ($5,898,508/235,000 CODs = $25.08/COD), which results in an annual renewal fee of $25.08, which is rounded up to the next dollar, $26. This allows us to recover the full cost of providing this service.

When formulating this proposal, we also considered an alternate methodology to calculate the annual COD renewal fee. This alternative fee was derived from taking the average of the fees charged by each state on an annual basis. The average fee, on an annual basis, for the 50 states and the District of Columbia is approximately $42. This average, multiplied by the number of annual renewals, yields a value of approximately $10 million. Since the annual collections under this methodology would exceed the cost of providing the service, and full cost results provided a more reasonable fee, we rejected this alternative.

V. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below, we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Two additional executive orders were recently published to promote the goals of Executive Order 13563: Executive Orders 13609 (''Promoting International Regulatory Cooperation'') and 13610 (''Indentifying and Reducing Regulatory Burdens''). Executive Order 13609 targets international regulatory cooperation to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. Executive Order 13610 aims to modernize the regulatory systems and to reduce unjustified regulatory burdens and costs on the public.

Initially, this proposed rule had been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the NPRM was reviewed by the Office of Management and Budget. However, upon review, the Office of Managagement and Budget determined that this NPRM 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 that Order. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry.

The cost outlined in this proposed rule would represent a transfer payment from the public to the government to offset the costs to the U.S. Coast Guard to provide COD renewal services. The following table summarizes the costs and benefits of this proposed rule.

TABLE 3—COSTS AND BENEFITS OF THE PROPOSED RULE

Category	Estimate (millions)
Costs (Transfer Payments)	
Annual Monetized Costs (undiscounted rounded values)	$6.1
10-year Present Value Monetized Costs (rounded values, 7% discount rate, discounting begins in first year).	42.9
Benefits	
Qualitative Benefits	This proposal would allow the Federal Government to recoup its costs for administering COD renewals, enabling the Coast Guard to continue offering these services to the public.

As discussed above, this proposed rule would require an annual renewal fee for all endorsements on the CODs. This fee, which is based on the costs that the Federal Government currently incurs to process renewals, along with additional costs due to increased need in labor and capital costs, would cost each vessel owner $26 per renewal.

The renewal fee that would be charged to the public under this proposed rule is based on the full cost to the Federal Government to provide this service. The renewal fee would

allow the Federal Government to recoup those costs. The purpose of the renewal fee is to ensure that this service is self-sustaining. As such, the renewal fee would be determined by dividing the full, annual cost of providing the service by the average number of renewals over the past 5 years. The full, annual cost of providing this service includes all current costs, such as labor, capital, and overhead, plus additional labor and capital costs that will be required to process the additional fees collected. The following figure summarizes the annual cost estimate of the proposed rule. See the ''Discussion of Proposed Rule'' section and Table 2 for more detail on the data used for this estimate.

Figure 1. Total Annual Costs (Undiscounted)

Total Annual Proposed Cost = Renewal Fee × Average Number of Annual Renewals = $6.1 Million = $26 × 235,000 renewals.[2]

The benefit of this proposed rule is to allow the Federal Government to recoup its costs for administering COD renewals, enabling the Coast Guard to continue offering these services to the public.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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.

For this proposed rule, we reviewed size and ownership data of affected entities by using data provided by the NVDC and public and proprietary data sources for company revenue and employee size data. We determined that there are approximately 18,164 entities owning 65,534 commercial vessels that would be impacted by this proposed rule.[3] These entities include businesses and government jurisdictions. The remaining vessel population is comprised of recreational vessels that are not included in this initial regulatory flexibility analysis because these vessels are owned by individuals and individuals are not considered to be small entities for the purpose of the Regulatory Flexibility Act.

To conduct our analysis, we chose a random sample of 400 affected entities.[4] We were able to find revenue or employee size data for 88 of these entities using Web sites, such as MANTA and ReferenceUSA. This included 83 businesses and five government jurisdictions. We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields.

To determine the size of the 83 businesses with available revenue or employee size data, we used the North American Industry Classification System (NAICS) codes to identify the line of business for the entities in our sample and compared the data found to the small business size standards determined by the Small Business Administration (SBA).[5] Of the entities with data, 70 are considered small by SBA size standards and 13 exceeded SBA size standards for small businesses. We also assume that those entities without data available are small.

To determine the size of the five affected government jurisdictions, we used the definition from the Regulatory Flexibility Act § 601(5), which classifies small government jurisdictions as jurisdictions with a population of less than 50,000. Of the five government jurisdictions, one has a population of less than 50,000, and would therefore be considered small.

As such, we estimate that more than 95 percent of all entities that would be affected by this proposed rule are small entities. We do not anticipate a significant economic impact to these small entities as a result of this proposed rule. This proposed rule would require that all entities renewing the endorsements on their COD pay an annual renewal fee of $26 per documented vessel. This proposed rule impacts a diverse set of industry sectors with a wide range of fleet sizes and revenues. Table 4 provides example data for three affected small businesses that represent the upper, lower, and median values for revenue, fleet size, and cost found within the sample population. Our research shows that those entities with the largest fleets, as thus a greater incurred cost, also have the highest reported revenue in our sample.

TABLE 4—EXAMPLE REVENUE, VESSEL COUNT, AND COST FOR THREE AFFECTED SMALL ENTITIES

Category	Small entity representing lower bound	Small entity representing median	Small entity representing upper bound
Revenue per Entity	$15,000	$336,000	$12,000,000*
Vessel Count	1	2	6.
Costs per Entity	$26	$52	$156.
Percent Impact of Renewal Fees on Revenues	Less than 0.2%	Less than 0.02%	Approximately 0.0013%.

*Note: The small entity with this revenue is classified under NAICS 336611, Ship Building and Repairing, and has an SBA size standard of 1,000 employees. This means entities in this industry with 1,000 or fewer employees would be considered small. This entity has 54 employees and was determined small even though its annual revenues are $12 million.

By multiplying the renewal fee by the number of documented vessels owned by each entity analyzed from our sample, we were able to calculate the cost per entity from this proposed rule. We then used that cost to determine a percentage of revenue impact on the entity by dividing the total cost per entity by the revenue. This analysis showed that the impact from this proposed rule would be less than 1 percent of annual revenue for small businesses in the sample.

The one small government jurisdiction in our sample operated three vessels that would require COD renewals for a total of $78 in annual COD renewal fees. Given that the cost to this small government jurisdiction is only $78, we expect this proposed rule would not cause a significant economic impact.

[2] Value may not total due to rounding.

[3] Data provided by the National Vessel Documentation Center.

[4] A sample size of 400 provides a 95 percent confidence level at a confidence interval of 5.

[5] SBA has established a Table of Small Business Size Standards, which is matched to the North American Industry Classification System (NAICS) industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business for SBA and Federal contracting programs. See *http://www.sba.gov/size.*

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. 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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 consult Mary Jager, CG–DCO–832, Coast Guard; telephone 202–372–1331, email *Mary.K.Jager@uscg.mil.* 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.

D. Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on state or local governments and would either preempt state law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

F. 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. 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.

H. 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.

I. Protection of Children

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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

To determine whether the proposed rule would have an impact on any Indian tribal governments, we queried Marine Safety Information Law Enforcement (MISLE) to obtain a list of vessels potentially owned by Indian tribes. We discovered that there are approximately six different tribes with nine vessels that are documented. There are a very small number of vessels per tribe and we do not believe that the proposed rule would have a substantial impact on any of the tribes. Consequently, we have initially determined that 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.

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to develop rules and to mitigate tribal concerns. Indian Tribes that have questions concerning the provisions of this proposed rule or believe that our initial determination is incorrect are encouraged to submit information to the docket for review and consideration.

K. Energy Effects

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

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. 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 that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule involves a new annual fee for renewals of endorsements upon the COD and falls under paragraph 34(a) of the Coast Guard's NEPA Implementing Procedures and Policy for Considering

Environmental Impacts, COMDTINST M16475.1D. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 67 as follows:

PART 67—DOCUMENTATION OF VESSELS

■ 1. The authority citation for 46 CFR part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110, 12106, 12120, 12122; 46 U.S.C. app. 841a, 876; Department of Homeland Security Delegation No. 0170.1.

§ 67.500 [Amended]

■ 2. In § 67.500, remove and reserve paragraph (b).

■ 3. Revise § 67.515 to read as follows:

§ 67.515 Application for renewal of endorsements.

An application fee is charged for annual renewal of endorsements on Certificates of Documentation in accordance with subpart L of this part.

■ 4. Revise § 67.517 to read as follows:

§ 67.517 Application for late renewal.

In addition to any other fees required by this subpart, including a renewal fee, a fee is charged for a late renewal in accordance with subpart L of this part.

■ 5. Revise Table 67.550 to read as follows:

§ 67.550 Fee table.

* * * * *

TABLE 67.550—FEES

Activity	Reference	Fee
Applications:		
Initial Certificate of Documentation	Subpart K	$133.00
Exchange of Certificate of Documentation	do	84.00
Return of vessel to documentation	do	84.00
Replacement of lost or mutilated Certificate of Documentation	do	50.00
Approval of exchange of Certificate of Documentation requiring mortgagee consent	do	24.00
Trade endorsement(s):		
Coastwise endorsement	Subpart B	29.00
Coastwise Boaters endorsement	46 CFR part 68	29.00
Fishery endorsement	do	12.00
Registry endorsement	do	none
Recreational endorsement	do	none
Note: When multiple trade endorsements are requested on the same application, the single highest applicable endorsement fee will be charged, resulting in a maximum endorsement fee of $29.00		
Evidence of deletion from documentation	Subpart L	15.00
Renewal fee	do	26.00
Late renewal fee	do	[3] 5.00
Waivers:		
Original build evidence	Subpart F	15.00
Bill of sale eligible for filing and recording	Subpart E	15.00
Miscellaneous applications:		
Wrecked vessel determination	Subpart J	555.00
New vessel determination	Subpart M	166.00
Rebuild determination—preliminary or final	do	450.00
Filing and recording:		
Bills of sale and instruments in nature of bills of sale	Subpart P	[1] 8.00
Mortgages and related instruments	Subpart Q	[1] 4.00
Notice of claim of lien and related instruments	Subpart R	[1] 8.00
Certificate of compliance:		
Certificate of compliance	46 CFR part 68	55.00
Miscellaneous:		
Abstract of Title	Subpart T	25.00
Certificate of ownership	do	125.00
Attachment for each additional vessel with same ownership and encumbrance data	do	10.00
Copy of instrument or document	([2])	([2])

[1] Per page.
[2] Fees will be calculated in accordance with 6 CFR Part 5, Subpart A.
[3] Late renewal fee is in addition to the $26.00 renewal fee.

Dated: February 21, 2013.

Paul F. Thomas,

Director of Inspections and Compliance, U.S. Coast Guard.

[FR Doc. 2013–04866 Filed 3–1–13; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–40, RM–11691; DA 13–160]

Television Broadcasting Services; Seaford, Delaware and Dover, Delaware

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Western Pacific Broadcast, LLC (''Western Pacific''), the permittee of unbuilt station WMDE(TV), Channel 5, Seaford, Delaware, requesting an amendment of the DTV Table of Allotments to delete Channel 5 at Seaford and substitute Channel 5 at Dover, Delaware. Western Pacific further requests modification of WMDE(TV)'s construction permit to specify Dover, Delaware as the station's community license and seeks a waiver of the Commission's freeze on the filing of petitions for rulemaking by televisions stations seeking to change their community of license. Western Pacific asserts that its proposal to reallot Channel 5 to Dover is based on the technical specifications currently authorized for WMDE(TV), and therefore the new allotment will be mutually exclusive with the station's existing allotment. Western Pacific further states that its proposal meets the Commission's allotment priorities by providing Dover with its first local television service, and that Seaford will remain well-served after the reallotment because full-power noncommercial station WDPB(TV), Channel *44, will remain licensed to that community. Therefore, Western Pacific submits that this rulemaking will serve the public interest.

DATES: Comments must be filed on or before April 3, 2013, and reply comments on or before April 18, 2013.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: M. Scott Johnson and Daniel A. Kirkpatrick, Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Peter Saharko, *Peter.Saharko@fcc.gov,* Media Bureau, (202) 418–1856.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 13–40, adopted February 12, 2013, and released February 13, 2013. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via email *www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

Federal Communications Commission

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Delaware is amended by removing channel 5 from Seaford and adding channel 5 at Dover.

[FR Doc. 2013–04832 Filed 3–1–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–R9–MB–2011–0077; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AY59

Migratory Bird Hunting; Revision of Language for Approval of Nontoxic Shot for Use in Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to revise our regulations regarding the approval of nontoxic shot types to make the regulations easier to understand. The language governing determination of Expected Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems is altered to make clear the shot size and number of shot to be used in calculating the EECs. We propose to specify the pH levels to be used in calculating the EEC in water. We also propose to move the requirement for in vitro testing to Tier 1, which will allow us to better assess applications and minimize the need for Tier 2 applications. We propose to add language for withdrawal of alloys that have been demonstrated to have detrimental environmental or biological effects, or for which no suitable field-testing device is available. We expect these changes to reduce the time

required for nontoxic shot approvals. Finally, we propose to charge fees to cover our costs in evaluating these applications.

DATES: Electronic comments on this proposal via *http://www.regulations.gov* must be submitted by 11:59 p.m. Eastern time on June 3, 2013. Comments submitted by mail must be postmarked no later than June 3, 2013. Comments on the information collection requirements are due no later than April 3, 2013.

ADDRESSES: You may submit comments by either of the following two methods:

- *Federal eRulemaking portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R9–MB–2011–0077.
- *U.S. mail or hand delivery:* Public Comments Processing, Attention: FWS–R9–MB–2011–0077; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, MS 2042–PDM; Arlington, VA 22203–1610.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information that you provide. See the Public Comments section below for more information.

Submit comments on the information collection requirements to the Desk Officer for the Department of the Interior at Office of Management and Budget, Office of Information and Regulatory Affairs (OMB–OIRA) at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email).

FOR FURTHER INFORMATION CONTACT: Dr. George Allen, 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service (FWS) regulates the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, we have sought to identify shot types that are not significant toxicity hazards to migratory birds or other wildlife. Producers of potential nontoxic shot alloys submit them for FWS approval under 50 CFR 20.134 as nontoxic for waterfowl hunting. We propose to revise the regulations to clarify them for applicants and to provide for withdrawal of approval of a shot type that is not readily detectable in the field or has environmental effects or direct toxicological effects on biota.

Changes in the Regulations Governing Nontoxic Shot Approval

We propose to rewrite the regulations at 50 CFR 20.134 in plain language and to change or add some provisions. We seek comment on these proposed regulations, particularly the following proposed changes:

1. Eliminating publication of a *Notice of Application* in the **Federal Register** upon receipt of an application for approval (current paragraph (b)(2)(i)(D)(*3*)). We have found that these notices engender few comments, and the public has a meaningful opportunity to participate later in the approval process.

2. Specifying that an application for approval of a nontoxic alloy must document that a shotshell loaded with shot of the alloy can be readily identified as containing nontoxic shot with a standard field shotshell testing device (proposed paragraph (b)(2)). Wildlife law enforcement officers should be able to use simple, readily available testing devices for nontoxic shotshells. Applicants have consistently provided this information, and this requirement is a negligible addition to their costs.

3. Specifying that an application for approval of a nontoxic shot must include a statement of the relative hardness of the candidate alloy, compared to standard lead shot having a hardness of 1.0. This information will help the public decide about the type of firearm in which the shot type can safely be used (proposed paragraph (e)(4)). Providing this information will not add significantly to the application preparation time or cost.

4. Revising language governing the determination of Expected Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems to make clear the shot size and number of shot to be used in calculating the EECs (proposed paragraph (g)(3)). This information is not in the current regulations. This addition will reduce the application preparation time and cost because applicants have previously had to contact us about this point.

5. Adding specific pH levels to be used in calculating the EEC in water (proposed paragraph (g)(3)(ii)). This information is not in the current regulations. Specifying the pH will reduce the application preparation time and cost because applicants have previously had to contact us about this point.

6. Moving the former Tier 2 solubility testing to Tier 1 (proposed paragraph (h)). This change will allow us to better assess applications and minimize the need for Tier 2 applications. We expect it to reduce the time required for nontoxic shot approvals. This change will add to applicants' initial costs, but will speed up application reviews and will help us to avoid requiring Tier 2 testing for some applications. We estimate that applicants will incur an additional cost of $25,000 to complete the solubility testing.

7. Adding a provision for withdrawal of an approved shot type (proposed paragraph (z)). There is no provision in the current regulations for withdrawal of the approval of a shot type. For example, changes in manufacturing can render a shot type nonmagnetic despite its containing an amount of iron normally sufficient to be detectable in a loaded shotshell with a magnet. These loaded shells are then not identifiable by the method we approved when approving the shot type for use in hunting, and perhaps not by any field-testing method.

Permit Application Processing Fee

We propose to charge a fee sufficient to offset the estimated costs associated with processing and our periodic review of these permits. Revised OMB circular A–25 directs Executive Branch agencies to recover costs, stating that, ''When a service (or privilege) provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed (to recover the full cost to the Federal Government for providing the special benefit, or the market price).'' Further, Circular A–25 directs that, ''Except as provided in Section 6c, user charges will be sufficient to recover the full cost to the Federal Government (as defined in Section 6d) of providing the service, resource, or good when the Government is acting in its capacity as sovereign.'' Thus, the directive to the Service is to recover the costs for working with applicants and assessing nontoxic shot approval applications.

We have received less than one application per year, on average, for approval of a new nontoxic shot type per year in the last decade. However, each application requires staff review time, preparation of an environmental assessment to comply with the National Environmental Policy Act, consultation with toxicologists about the shot alloy(s), and three **Federal Register** publications, though we propose in this rule to reduce that to one standard proposed rule and a final rule.

Having considered the agency costs and the requirement to recoup those costs, we propose a Tier 1 nontoxic shot application fee of $800. That amount is $53 more than our estimated current review costs reflected in table 1, but is below the Service's costs in the near future. Likewise, we propose an additional $700 fee for evaluation of a Tier 2 application, if one is needed, and $700 more for evaluation of a Tier 3 application, if one is needed (based on current costs of $664 for each of these reviews, as shown in table 1). If the application is approved, then the applicant would incur an additional fee of $20,000 to cover costs for additional administrative review and **Federal Register** publication of the required proposed and final rule.

TABLE 1—CURRENT HOURS AND COSTS FOR PROCESSING A NONTOXIC SHOT APPROVAL APPLICATION

Task	Staff hours	Approximate cost	Review cost
Tier 1			
Review application for completeness	2	[1] $166	$747
Review by U.S. Geological Survey toxicologist	5	415	
Consult with U.S. Geological Survey toxicologist	2	166	
Tier 2			
Review of Tier 2 application	3	249	664
Review of Tier 2 application by USGS toxicologist	5	415	
Tier 3			
Review of Tier 3 application	3	249	664
Review of Tier 3 application by USGS toxicologist	5	415	
Publication Fees (if application is approved)			
Prepare draft environmental assessment and proposed rule	20	1,660	19,575
Proposed rule **Federal Register** charges		[2] 11,000	
Review comments and prepare final environmental assessment and final rule	5	415	
Final rule **Federal Register** charges		[3] 6,500	
Total	.....	21,650	

[1] Staff review costs are based on Washington, D.C. metro area salary and benefits for a GS13/10 biologist ($55.46/hour * 1.5 for benefits, or about $83/hour).
[2] Average publication cost of nontoxic shot proposed rules from 2001 through 2011 was $10,695.
[3] Average publication cost of nontoxic shot final rules from 2001 through 2011 was $6,122.50.

Public Comments

We request comments or suggestions on this proposed rule from any interested parties. You may submit comments and materials concerning this proposed rule by either one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax or to an address not listed in **ADDRESSES**. Please do not submit comments by both alternatives.

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. 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. We will post all hardcopy comments on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection at *http://www.regulations.gov,* or by appointment at the U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of our previous actions concerning this subject by mail (see **FOR FURTHER INFORMATION CONTACT**) or by visiting the Federal eRulemaking Portal at *http://www.regulations.gov.*

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement

Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the proposed rule on small businesses, small organizations, and small government jurisdictions. However, no regulatory flexibility analysis is required if the head of an agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The proposed rule would require additional information in the initial application and increase the application fee. As a result, companies applying for nontoxic shot approval would incur additional costs. These companies include ammunition companies. The U.S. Small Business Administration defines a ''small business'' as one with employment that meets or is below the established size standard, which is 1,000 employees for ''Small Arms Ammunition Manufacturing'' businesses (NAICS 332992). In 2010, the U.S. Census Bureau shows that about 93 percent of the 112 Small Arms Ammunition Manufacturing establishments qualify as small businesses (fewer than 1,000 employees). We receive an average of only about one application per year, so less than one percent of affected small businesses would be impacted.

The proposed rule would have minimal impact on the application process for nontoxic shot. Applicants already submit the additional application information that the regulations will require. Therefore, the information in an application would change minimally.

The proposed rule includes application fees because, as detailed in the preamble, revised OMB circular A–25 directs Executive Branch agencies to establish ''user charges * * * sufficient to recover the full cost to the Federal Government.'' A large portion of the application costs consist of **Federal Register** publication fees ($17,500, as reflected in table 1). Because we are required to publish each approved nontoxic shot application in the **Federal Register**, we are proposing to recoup publication fees from each company that applies for a nontoxic shot approval.

We have examined this proposed rule's potential effects on small entities, and have determined that it will not have a significant economic impact on a substantial number of small entities because less than one percent of small businesses would be impacted. Therefore, we certify that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

a. This proposed rule does not have an annual effect on the economy of $100 million or more. It will not change the costs for submission of shot types for approval as nontoxic.

b. This proposed rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. This proposed rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This proposed rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Regulation of nontoxic shot for migratory bird hunting does not affect small government activities.

b. This proposed rule will not produce a Federal mandate of $100 million or greater in any year, so it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The proposed regulation revision will not significantly affect State regulations.

Takings

This proposed rule does not affect private property, and has no takings implications. In accordance with Executive Order 12630, a takings implication assessment is not required.

Federalism

This proposed rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It will not interfere with the States' abilities to manage themselves or their funds. No significant economic impacts should result because of these proposed changes to the regulation of nontoxic shot approval.

Civil Justice Reform

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

Paperwork Reduction Act

This proposed rule contains a collection of information that we are submitting to the Office of Management and Budget (OMB) for review and approval under Sec. 3507(d) of the Paperwork Reduction Act (PRA). OMB has reviewed and approved the current information collection requirements associated with the approval of nontoxic shot for use in waterfowl hunting and assigned OMB Control Number 1018–0067, which expires May 31, 2015. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

We propose to revise the regulations at 50 CFR 20.134 to add the following new requirements:

- Application must document that a shotshell loaded with shot of the alloy can be readily identified as containing nontoxic shot with a standard field shotshell testing device. Wildlife law enforcement officers should be able to use simple, readily available testing devices for nontoxic shotshells.
- Application must include a statement of the relative hardness of the candidate alloy, compared to standard lead shot having a hardness of 1.0. This information will help the public decide about the type of firearm in which the shot type can be used safely.
- Required shot size and number of shot to be used in calculating the Expected Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems.
- Specific pH levels to be used in calculating the EEC in water.

We expect that the above requirements will add very little to the application preparation time or cost;

therefore, we have not increased the completion time from that currently approved. In addition to the above requirements, we are also proposing to move the former Tier 2 solubility testing to Tier 1. This change will allow us to better assess applications and minimize the need for Tier 2 applications.

We are also proposing fees for different stages of an application sufficient to offset the estimated costs associated with processing the application. See Permit Application Processing Fee, above, for an explanation of this fee. We have increased our estimate of the nonhour burden cost by including the $800 application fee for Tier 1 applications.

Title: Approval Procedures for Nontoxic Shot and Shot Coatings, 50 CFR 20.134.

OMB Control Number: 1018–0067.

Service Form Number: None.

Type of Request: Revision of a currently approved collection.

Description of Respondents: Businesses that produce and/or market approved nontoxic shot types or nontoxic shot coatings.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Number of Respondents: 1.

Estimated Number of Annual Responses: 1.

Estimated Completion Time per Response: 3,200 hours.

Estimated Total Annual Burden Hours: 3,200.

Estimated Total Nonhour Burden Cost: $25,800 ($800 for application processing fees, plus $25,000 for solubility testing).

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting burden, including:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email).

National Environmental Policy Act

We have analyzed this proposed rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment, and does not require the preparation of an environmental impact statement or an environmental assessment. The changes we propose are largely to reorganize the regulations and put them into easier-to-understand language. Because the revision of 50 CFR 20.134 is administrative, it will have no environmental effects. It is categorically excluded from further NEPA requirements (43 CFR 46.210(i)).

Environmental Consequences of the Proposed Action

The changes we propose are primarily in the reorganizing and rewriting of the regulations. The environmental impacts of this action are minimal.

Socio-economic. We do not expect the proposed regulations change to have any socio-economic impacts.

Wildlife populations. This proposed regulations change does not significantly alter the approval of nontoxic shot in the United States. This proposed rule will have no effects on wildlife populations.

Endangered and Threatened Species. The proposed regulations change will have no effect on the status of threatened or endangered species.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that there are no potential effects on federally recognized Indian tribes. This proposed rule will not interfere with Tribes' abilities to manage themselves or their funds or to regulate migratory bird hunting on tribal lands.

Energy Supply, Distribution or Use

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule will not affect energy supplies, distribution, or use, so it does not require a Statement of Energy Effects.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). The proposed regulations change would not affect listed species.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are not clearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, we propose to amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as set forth below.

PART 20—[AMENDED]

■ 1. The authority citation for part 20 is revised to read as follows:

Authority: 16 U.S.C. 703–712 and 742 a–j; Pub. L. 106–108.

■ 2. Revise § 20.134, including the section heading, to read as follows:

§ 20.134 Approval of nontoxic shot alloys and coatings.

The U.S. Fish and Wildlife Service conducts a process to approve shot material determined not to impose a significant toxicity danger to migratory birds and other wildlife or their habitats. The regulations in this section set forth the approval process. Upon receipt of an application and supporting data submitted in accordance with this section, the Service will review the application materials together with all other relevant available evidence, including public comment. If the Director concludes that the spent shot material will not present a significant toxicity danger to migratory birds and other wildlife or their habitats, we will add the shot material to the list of approved nontoxic shot materials at 50 CFR 20.21(j).

(a) *Information collection approval.* The Office of Management and Budget approved the information collection requirements contained in this section under 44 U.S.C. 3501 et seq. and assigned OMB Control No. 1018–0067. We collect this information so that we can conduct a methodical and objective review of an alloy you submit as nontoxic for hunting waterfowl. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may submit comments on this information collection to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., Mailstop 2042–PDM, Washington, DC 20240.

(b) *Limitations on nontoxic alloy approval.* We will not approve as nontoxic any alloy or shot coating with a lead content of 1 percent or more.

(1) Before we will approve any alloy or shot coating as nontoxic, a shotshell loaded with the alloy or coated shot must be demonstrated to be identifiable as not being lead in a portable field testing device used by enforcement officers.

(2) The testing device can be regular magnets, rare-earth magnets, or the ''HOT*SHOT'' field-testing device from Stream Systems of Concord, CA. We will consider other field-testing devices that may be readily available to law enforcement officers.

(c) *Application submission and review.* We use a 3-tier strategy for approval of nontoxic alloys and shot coatings. You must submit any application for approval under this section with supporting documentation in accordance with the following procedures and must include at least the supporting materials and information for Tier 1 in the approval system. If your application is not complete, we will return it to you with an explanation of the additional information we need to initiate review of your submission.

(d) *Tier 1 application fee.* The fee for consideration of a Tier 1 application is $800. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(e) *Tier 1 application.* If you wish to submit an alloy or shot coating for consideration as nontoxic for waterfowl hunting, you must provide statements of use, chemical characterization, production variability, volume of use of the candidate material, and a sample of the shot or shot coating.

(1) Provide a statement of how you propose to use the candidate material in creating waterfowl hunting shotshells.

(2) Provide a description of the chemical composition of the material comprising the shot.

(i) Provide the chemical names, Chemical Abstracts Service numbers (consult the American Chemical Society), and structures of the components of the shot.

(ii) Provide a chemical characterization for organics and organometallics for the core and/or coating, including the empirical formula, melting point, molecular weight, solubility, specific gravity, partition coefficients, hydrolysis half-life, leaching rate in water and in soil, degradation half-life, vapor pressure, stability, and other relevant characteristics for each component.

(iii) Provide data on the composition, weight, and sectional density of the shot material.

(iv) Provide data on the thickness, quantity in milligrams (mg) per shot, and chemical composition of any coating on the shot.

(3) Provide documentation that the shot can be readily identified as nontoxic with a standard field shotshell testing device.

(4) Provide a statement of the relative hardness of the candidate alloy, compared to standard lead shot having a hardness of 1.0.

(5) Provide a statement of the expected variability of shot during production.

(6) Provide an estimate of yearly volume of candidate alloy and/or coated shot expected to be produced for use in hunting migratory birds in the United States.

(7) Provide 5 pounds (approximately 2.18 kilograms (kg)) of the candidate alloy or shot with the proposed coating in size equivalent to U.S. standard size No. 4 of 0.13 inches (approximately 3.3 millimeters (mm)) in diameter.

(i) We or an independent laboratory may analyze the composition of the shot or the shot coating.

(ii) We will reject your application if the composition of the shot or shot coating differs substantially from what you describe in your application.

(f) *Toxicological effects.* You must provide information on the toxicological effects of the shot or any coating on it.

(1) Provide a summary of the acute and chronic toxicity data of the metals or compounds in the shot or the shot coating, ranking the toxicity of each. Use the following criteria to assess the toxicity of the shot or shot coating. These criteria are based on the estimated median lethal dose of the candidate alloy or shot coating. That is, the statistically derived single dose estimate of the candidate material that can be expected to cause death in 50 percent of the animals tested (LD50).

If the LD50 is	the material is considered
no more than 5 mg/kg,	super toxic.
over 5 to 50 mg/kg,	extremely toxic.
over 50 to 500 mg/kg,	very toxic.
over 500 to 5,000 mg/kg,	moderately toxic.
over 5,000 to 15,000 mg/kg,	slightly toxic.
over 15,000 mg/kg,	nontoxic.

(2) Provide a summary of known acute, chronic, and reproductive toxicological data of the chemicals comprising the shot or shot coating with respect to birds, particularly waterfowl. Include LD50 or LC50 (concentrations in water lethal to 50 percent of test populations) data, and sublethal effects, with citations.

(3) Provide a narrative description, with citations to relevant data, predicting the toxic effect in waterfowl of complete erosion and absorption of one shot or coated shot in a 24-hour period. Define the nature of the toxic effect, such as mortality, impaired reproduction, substantial weight loss, disorientation, or other relevant associated clinical observations.

(4) Provide a statement with supporting rationale and citations to relevant data about whether ingestion of the shot or shot coating by fish, amphibians, reptiles, or mammals is cause for concern. If there is a recognized impact on fish, amphibians, reptiles, or mammals, we reserve the right to require additional study of the shot or shot coating.

(g) *Environmental fate and transport.* You must provide information on the

environmental fate and transport, if any, of the shot and any coating on it.

(1) Provide a statement describing any chemical or physical alteration of the shot and shot coating upon firing.

(2) Provide an estimate of the environmental half-life of the organic or organometallic components of the shot and shot coating, and a description of the chemical form of the breakdown products of the component(s).

(3) For each metal or other component of the shot or shot coating, determine the Estimated Environmental Concentration (EEC).

(i) Determine the EEC in a terrestrial ecosystem if 69,000 U.S. standard size No. 4 shot of 0.13 in (3.3 mm) in diameter are completely dissolved in 1 hectare (ha) (107,639 square feet (ft^2)) of soil 5 centimeters (cm) (1.97 in) deep. Assess whether the EEC would exceed the clean soil standards for the Use or Disposal of Sewage Sludge at 40 CFR part 503. Explain how the estimated EEC relates to the toxicity thresholds for plants, invertebrates, fish, and wildlife.

(ii) Determine the EEC in an aquatic ecosystem if 69,000 U.S. standard size No. 4 shot of 0.13 in (3.3 mm) in diameter are completely dissolved in 1 ha, or 107,639 ft^2, of water 1 ft (30.48 cm) deep. Express the calculated concentrations in standard units such as micrograms per liter, for water with pH of 4.0, 7.0, and 9.0. Explain how the estimated EEC compares to the U.S. Environmental Protection Agency (EPA) Water Quality Criteria and toxicity thresholds in plants, invertebrates, fish, and wildlife.

(4) Conduct a risk assessment using the Quotient Method. Calculate the risk of the submitted shot material, the EEC/the Toxicological Level of Concern. For example, compare the EEC in parts per million (p/m) to an effect level such as the LD50 in p/m. Use the following criteria to assess the risk of the components of the shot or shot coating.

If the risk ratio is	then
less than 0.1,	adverse effects are not likely.
0.1 to 10.0,	adverse effects are possible.
greater than 10.0,	adverse effects are likely.

(h) *In vitro evaluation.* You must evaluate the candidate alloy or shot coating in a standardized test under conditions that will assess its erosion and any release of components into a liquid medium in an environment simulating the conditions of a waterfowl gizzard. Compare the erosion characteristics to those of lead shot and steel shot of comparable size.

(1) *Test materials.* You will need appropriate analysis equipment, such as for atomic absorption spectrophotometry or inductively coupled plasma mass spectrometry, a drilled aluminum block to support test tubes, a thermostatically controlled stirring hot plate, small Teflon®-coated magnets, hydrochloric acid of pH 2.0, pepsin, capped test tubes, and U.S. No. 4 lead, steel, and candidate alloy or shot with the proposed coating.

(2) *Test procedures.*

(i) Add hydrochloric acid and pepsin to each capped test tube at a volume and concentration that will erode a single U.S. No. 4 lead shot at the rate of 5 mg per day.

(ii) Place three test tubes, each containing lead shot, steel shot, or the candidate alloy or shot with the proposed coating in an aluminum block on the stirring hot plate. Add a Teflon®-coated magnet to each test tube and set the hot plate at 42 degrees Centigrade and 500 revolutions per minute.

(iii) Determine the erosion of shot or shot with the proposed coating daily for 14 consecutive days by weighing the shot and analyzing the digestion solution with an atomic absorption spectrophotometer.

(iv) Replicate the 14-day procedure five times.

(3) *Test analyses.* Compare erosion rates of the three types of shot by appropriate analysis of variance and regression procedures. The statistical analyses will determine whether the rate of erosion of the shot and/or shot coating is significantly greater or less than that of lead and/or steel shot. This determination is important to any subsequent toxicity testing.

(i) *Tier 1 application review.* Upon receipt of your completed Tier 1 application, we will promptly perform an overview. We will notify you within 30 days of receipt that our thorough review of the application will commence, and we will complete our review within 60 days of the date of publication. We will use half of the LD50/ft^2 in terrestrial and aquatic systems as the level of concern in evaluating your application.

(j) *Approval after Tier 1 testing.* If we determine that the Tier 1 data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a $20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the **Federal Register** stating that we intend to approve this shot or shot coating as nontoxic and provide the public with the opportunity to comment on our decision. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 1.

(2) If, after considering public comment on the proposed rule, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the **Federal Register** and addition of the shot or coating to the list in § 20.21(j).

(k) *Additional testing.* If we conclude that the Tier 1 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will advise you to proceed with some or all of the additional testing described for Tier 2, Tier 3, or both.

(1) We will inform you that we consider the Tier 1 test results to be inconclusive. We will request Tier 2, and possibly Tier 3, testing before we evaluate the shot any further.

(2) If you choose not to do further testing, we will deny approval of the candidate alloy or shot coating.

(l) *Tier 2 application fee.* The fee for consideration of a Tier 2 application is $700. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(m) *Tier 2 testing.* Your Tier 2 testing procedures must be in compliance with the Good Laboratory Practice Standards (40 CFR part 160) except where they conflict with the requirements in this section or with a provision of an approved plan. We reserve the right for us or an authorized representative to inspect your laboratory facilities. We will not approve the plan and further consideration of the candidate alloy if the laboratory does not meet the Good Laboratory Practice Standards.

(n) *Tier 2 plan review.* We will review the Tier 2 testing plan you submit within 30 days of the day on which we receive it. We may decline to approve the plan, or any part of it, if we deem it deficient in any manner with regard to timing, format, or content. We will inform you regarding what parts, if any, of the submitted testing procedures to disregard and any modifications to incorporate into the Tier 2 testing plan to gain plan approval. After we accept your plan, you may conduct Tier 2 testing.

(o) *Tier 2 in vivo evaluation.* Conduct a 30-day acute toxicity test in mallards

using the following method unless we specify otherwise.

(1) *Test materials.* You will need 30 male and 30 female hand-reared mallards approximately 6 to 8 months old with plumage and body conformation of wild mallards; 60 elevated outdoor pens equipped with feeders and waterers; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; commercial duck maintenance mash; and lead, steel, and candidate alloy.

(2) *Test procedures.*

(i) House the mallards individually in pens and give them unrestricted access to food and water.

(ii) After 3 weeks, randomly assign them to 3 groups of 10 males and 10 females per group. Dose each duck with eight pellets of either U.S. No. 4 lead shot (positive control), steel shot (negative control), or the candidate alloy or shot with the proposed coating.

(iii) Fluoroscope each bird at 1 week after dosing to check for shot retention.

(iv) For 30 days, observe the birds daily for signs of intoxication and mortality.

(v) Determine the body weight for each bird at the time of dosing and at days 15 and 30.

(vi) On days 15 and 30, collect blood by venipuncture and determine hematocrit, hemoglobin concentration, and other measures of blood chemistry.

(vii) Euthanize all survivors on day 30. Remove the liver and other appropriate organs from each bird and those from birds that died prior to day 30.

(viii) Analyze the organs for lead and compounds contained in the candidate alloy or shot with the proposed coating.

(ix) Perform a necropsy of all birds to determine any pathological conditions.

(3) *Test analyses.*

(i) Analyze mortality among the specified groups with appropriate statistical procedures, such as chi-square, with $\alpha = 0.05$, and $\beta = 0.8$.

(ii) Analyze physiological data and tissue contaminant data by analysis of variance or other appropriate statistical procedures to include the factors of alloy and sex, with $\alpha = 0.05$ and $\beta = 0.8$.

(iii) Compare euthanized birds and birds that died prior to day 30 whenever sample sizes are adequate for meaningful comparison.

(p) *Daphnia and fish early-life toxicity tests.* Determine the toxicity of the compounds that comprise the shot or shot coating (at conditions maximizing solubility without adversely affecting controls) to selected invertebrates and fish. These methods are subject to the environmental effects test regulations developed under the authority of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), as follows:

(1) The first test, the Daphnia *(Daphnia species)* Acute Toxicity Test, must be conducted in accordance with 40 CFR 797.1300. It provides data on the acute toxicity of chemical substances. The guideline prescribes an acute toxicity test in which Daphnia are exposed to a chemical in static and flow-through systems for assessing the hazard the compound(s) may present to an aquatic environment.

(2) The second test, the Daphnia Chronic Toxicity Test, must be conducted in accordance with 40 CFR 797.1330. It provides data on the chronic toxicity of chemical substances in which Daphnia are exposed to a chemical in a renewal or flow-through system. The data from this test also are used to assess the hazard that the compound(s) may present to an aquatic environment.

(3) The third test, the Fish Early-Life-Stage Toxicity Test, must be conducted in accordance with 40 CFR 797.1600. It assesses the adverse effects of chemical substances to fish in the early stages of their growth and development. Data from this test also are used to determine hazards of the compound(s) in an aquatic environment.

(q) *Evaluation of Tier 2 testing.* If, after Tier 2 testing, you wish to continue the application process, send the Tier 2 testing results and analyses to us. You must ensure that copies of all the raw data and statistical analyses accompany the laboratory reports and final comprehensive report of this test. We will review the data within 60 days of the day on which we receive your Tier 2 application materials.

(r) *Approval after Tier 2 testing.* If we determine that the Tier 2 test data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a $20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the **Federal Register** stating that we intend to approve this shot or shot coating and provide the public with the opportunity to comment. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 2.

(2) If, at the end of the comment period, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the **Federal Register** and subsequent addition of the shot or coating to the list in § 20.21(j).

(s) *Additional testing.* If we conclude that the Tier 2 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, or if public comment on the proposed rule indicates that we should require further testing, we will advise you to proceed with the additional testing described for Tier 3. We will require Tier 3 testing before we evaluate the shot any further. If you choose not to do Tier 3 testing, we will deny approval of the candidate alloy or shot coating.

(t) *Tier 3 application fee.* The fee for consideration of a Tier 3 application is $700. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(u) *Tier 3 testing.* We will review your Tier 3 testing plan within 30 days of the day on which we receive it. All testing procedures in the plan should be in compliance with the Good Laboratory Practice Standards (40 CFR part 160), except where they conflict with the requirements in this section or with a provision of an approved plan. We, or our authorized representative, may elect to inspect your laboratory facilities and may decline to approve the plan and further consideration of the candidate alloy and/or shot coating if the facility is not in compliance with the Good Laboratory Practice Standards.

(1) We will not approve the plan, or any part of it, if we deem it deficient in any manner with regard to timing, format, or content. We will tell you what parts, if any, of the submitted testing procedure to disregard, and any modifications to incorporate into the Tier 3 plan needed for us to approve it.

(2) After acceptance of the plan, you may conduct the Tier 3 testing. You must ensure that copies of the raw data and the statistical analyses accompany the laboratory reports and final comprehensive report on this test.

(i) *Chronic toxicity test.* This is a long-term toxicity test under depressed temperature conditions using a nutritionally deficient diet. Conduct a chronic exposure test under adverse conditions that complies with the following general guidelines unless we tell you otherwise.

(A) *Test materials.* You will need 36 male and 36 female hand-reared mallards approximately 6 to 8 months old with plumage and body conformation of wild mallards; 72 elevated outdoor pens equipped with

feeders and waterers; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; whole kernel corn; and lead, steel, and candidate alloy or shot with the proposed coating.

(B) *Test procedures.*

(*1*) Conduct this test at a location where the mean monthly low temperature during December through March is between 20 and 40 degrees Fahrenheit (−6.6 and 4.4 degrees Centigrade, respectively).

(*2*) Assign individual mallards to elevated outdoor pens during the first week of December and give them an unrestricted diet of whole kernel corn for 2 weeks.

(*3*) Randomly assign birds to five groups—a lead group of four males and four females, and four other groups of eight males and eight females per group.

(*4*) Dose each bird in the lead group (the positive control) with one U.S. No. 4 pellet of lead shot. Dose each bird in one group of eight males and eight females with eight U.S. No. 4 pellets of steel shot (the negative control). Dose each bird in one remaining group of eight males and eight females with one U.S. No. 4 pellet of the candidate alloy or shot with the proposed coating, each bird in one of the remaining two groups of eight males and eight females with four U.S. No. 4 pellets of the candidate alloy or shot with the proposed coating, and each bird in the final group of eight males and eight females with eight U.S. No. 4 pellets of the candidate alloy or shot with the proposed coating.

(*5*) Weigh and fluoroscope the birds weekly.

(*6*) Weigh all recovered shot to measure erosion.

(*7*) Determine blood parameters given in the 30-day acute toxicity test. Provide body weight and blood parameter measurements on samples drawn at 24 hours after dosing, and at the end of days 30 and 60.

(*8*) Remove the liver and other appropriate organs from all birds that die prior to day 60.

(*9*) At the end of 60 days, euthanize all survivors. Remove the liver and other appropriate organs from the euthanized birds. Analyze the organs for lead and other metals in the candidate alloy or shot coating.

(*10*) Necropsy all birds that died prior to day 60 to determine any pathological conditions associated with their deaths.

(C) *Test analyses.*

(*1*) Analyze mortality among the specified groups with appropriate chi-square statistical procedures. Any effects on the previously mentioned physiological parameters caused by the shot or shot coating must be significantly less than those caused by lead shot and must not be significantly greater than those caused by steel shot.

(*2*) Analyze physiological data and tissue contaminant data by analysis of variance or appropriate statistical procedures to include the factors of alloy, dose, and sex.

(*3*) Compare euthanized birds and birds that died prior to being euthanized whenever sample sizes are adequate for a meaningful comparison.

(ii) *Chronic dosing study.* This moderately long-term study includes an assessment of reproduction. Conduct a chronic exposure reproduction trial within the following general guidelines unless we tell you otherwise.

(A) *Test materials.* You will need 44 male and 44 female hand-reared first-year mallards with plumage and body conformation of wild mallards; pens suitable for quarantine and acclimation and for reasonably holding 5 to 10 ducks each; 44 elevated pens equipped with feeders, waterers, and nest boxes; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; whole kernel corn, and commercial duck maintenance and breeder mash; and U.S. No. 4 lead, steel, and candidate alloy or shot with the proposed coating.

(B) *Test procedures.*

(*1*) In December, randomly assign the mallards to 3 groups—a positive control group of 4 males and 4 females that will be tested with lead; a negative control group of 20 males and 20 females that will be tested with steel; and a final group with 20 males and 20 females that will be tested with the candidate alloy or shot with the proposed coating. Hold the ducks in same-sex groups until mid-January. If the test is not conducted in the northern United States or comparable latitudes, the test must be completed in low-temperature units.

(*2*) After a 3-week acclimation period in which the ducks are fed with commercial maintenance mash, provide them an unrestricted diet of corn for 60 days and then pair them, put one pair in each pen, and provide them with commercial breeder mash.

(*3*) After the acclimation period, dose each bird in the lead group with 1 pellet of U.S. No. 4 lead shot, each bird in one of the groups of 20 males and 20 females with 8 pellets of U.S. No. 4 steel shot, and each bird in the remaining group of 20 males and 20 females with 8 pellets of U.S. No. 4 candidate alloy or shot with the proposed coating.

(*4*) Redose each bird with the appropriate shot after 30, 60, and 90 days. Few, if any, of the lead-dosed birds should survive and reproduce.

(*5*) Fluoroscope each bird 1 week after dosing it to check for shot retention.

(*6*) Weigh each bird the day of initial dosing (day 0), at each subsequent dosing, and at death.

(*7*) Collect a blood sample from each bird on the days on which they are dosed and immediately prior to euthanizing them.

(*8*) Check nests daily and collect any eggs laid. Note the date of first egg laid and the mean number of days per egg laid. Conclude monitoring of laying after 21 normal, uncracked eggs are laid or after 150 days.

(*9*) Collect eggs and discard any eggs laid before pairing.

(*10*) Euthanize the adults after they complete laying or after 150 days.

(*11*) Remove the liver and other appropriate organs from each euthanized bird and from each bird that dies prior to being euthanized.

(*12*) Analyze the organs and the eleventh egg for compounds contained in the shot or shot coating.

(*13*) Necropsy all the birds to determine any pathological conditions that affected them.

(*14*) Artificially incubate the normal eggs and calculate the percent shell thickness for each (compared to typical shell thickness), the percent of eggs cracked, the percent fertility (as determined by candling), and the percentage of fertile eggs hatched for each female.

(*15*) Provide ducklings that hatch with starter mash. Euthanize all ducklings at 14 days of age.

(*16*) Determine survival to day 14 and weight of the ducklings at hatching and at being euthanized.

(*17*) Measure duckling blood for hemoglobin concentration and other blood chemistries using blood samples drawn when the ducklings are euthanized.

(C) *Test analyses.* Any mortality, reproductive inhibition, or effects on physiological parameters due to the shot or shot coating must not be significantly greater than those caused by steel shot. If necessary, transform percentage data with an arcsine, square root, or other suitable transformation prior to statistical analyses. Analyze the physiological and reproductive data with one-tailed *t*-tests or other appropriate statistical procedures with $\alpha = 0.05$, and $\beta = 0.8$.

(v) *Evaluation of Tier 3 testing.* Report the results of your Tier 3 testing to us. We will review the data within 60 days of the day on which we receive your Tier 3 application materials. You must ensure that copies of the raw data and the statistical analyses accompany the

laboratory reports and final comprehensive report on this test.

(w) *Approval after Tier 3 testing.* If we determine that the Tier 3 test data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a $20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the **Federal Register** stating that we intend to approve this shot or shot coating and provide the public with the opportunity to comment. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 3.

(2) If, at the end of the comment period, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the **Federal Register** and subsequent addition of the shot or coating to the list in § 20.21(j).

(x) *Additional testing after Tier 3.* If we conclude that the Tier 3 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we may ask you to repeat tests we deem inconclusive. If you choose not to repeat the tests, we will deny approval of the candidate alloy or shot coating.

(y) *Denial after Tier 3 testing.* If we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you that we deny approval of the candidate alloy or shot coating.

(z) *Withdrawal of the approval of an alloy or shot coating.* If we find that an approved alloy or shot coating is not readily detectable in the field or has environmental effects or direct toxicological effects on biota, we may withdraw our approval of the alloy or shot coating. This includes any previously approved alloy or shot coating.

(1) We may consult the Service Law Enforcement Laboratory to determine whether any particular alloy or shot coating is readily detectable in the field by law enforcement officers.

(2) We may consider new evidence that meets the standards of the Information Quality Act (Pub. L. 106–554, 2001) under Office of Management and Budget Guidance (67 FR 8452–8460, February 22, 2002) that shows that an approved alloy or shot coating has significant environmental effects or direct toxicological effects that were not known when we approved the alloy or shot coating.

(3) In either case, we will publish a notice in the **Federal Register** informing manufacturers and the public of our pending withdrawal of the approval of the alloy or shot coating. We will revise the table of approved alloys at § 20.21(j) to reflect the withdrawal of the approval, to be effective on January 1st, after allowing manufacturers 1 full calendar year to prepare for the change.

Dated: February 21, 2013

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–04906 Filed 3–1–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BC58

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Amendment 9

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

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 9 (Amendment 9) to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 9 would revise the criteria and procedures by which South Atlantic states may request a concurrent closure of the penaeid shrimp (brown, pink, and white shrimp) commercial sector in the exclusive economic zone (EEZ) in order to protect overwintering white shrimp. Amendment 9 would also update the current overfished and overfishing status determination criteria for pink shrimp.

DATES: Written comments must be received on or before May 3, 2013.

ADDRESSES: You may submit comments on the amendment identified by ''NOAA–NMFS–2012–0227'' by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov,* enter ''NOAA–NMFS–2012–0227'' in the search field and click on ''search''. After you located the notice of availability, click on ''Submit a Comment'' link in that row. This will display the comment Web form. You can enter your submitter information (unless you prefer to remain anonymous), and type your comment on the Web form. You can also attach additional files (up to 10 MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

For further assistance with submitting a comment, see the ''Commenting'' section at *http://www.regulations.gov/#!faqs* or the Help section at *http://www.regulations.gov.*

Electronic copies of Amendment 9 may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.* Amendment 9 includes a Regulatory Impact Review and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727–824–5305, or email: *Kate.Michie@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The penaeid shrimp fishery of the South Atlantic is managed under the

FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

Currently, a South Atlantic state may close its state waters to trawling by the penaeid shrimp commercial sector following severe winter weather to protect the spawning stock of white shrimp that has been depleted by cold weather conditions. The existing process to concurrently close the adjacent EEZ can be lengthy because it requires a review of a state's request and accompanying shrimp abundance data by both the Council and the Council's Shrimp Review Panel before the NMFS Regional Administrator (RA) can make a determination as to whether or not a concurrent closure of Federal waters is warranted.

Amendment 9 would revise the criteria and procedures by which a South Atlantic state may request a concurrent closure of the penaeid shrimp commercial sector in the EEZ in order to protect overwintering white shrimp. Amendment 9 would also update the current overfished status determination criteria for pink shrimp.

Criteria Used To Trigger a State's Ability To Request a Concurrent Closure of the EEZ to Penaeid Shrimp Commercial Harvest

Amendment 9 would revise the criteria that must be met for a state to request NMFS to close the commercial penaeid shrimp harvest in the EEZ, following severe winter weather and a closure of state waters. Amendment 9 would require that a state must demonstrate either at least an 80-percent reduction in the population of overwintering white shrimp or that water temperatures were 9 °C (48 °F) or less, for at least one week (7 days). Additional details regarding the sampling methods a state may use for these determinations may be found in Amendment 9 and the FMP.

Process for a State To Request a Concurrent Closure of the EEZ to Penaeid Shrimp Commercial Harvest

Amendment 9 would also revise and streamline the procedures for a state to request a closure of the penaeid shrimp commercial sector in the EEZ concurrent with a closure in state waters. Under the current procedures, a state may request a concurrent closure of penaeid shrimp harvest in the EEZ once a state has determined that specific conditions have been met. Following that determination, the state sends a request to the Council, then the Council convenes its Shrimp Review Panel to review the state's request. If the review panel's recommendation is affirmative, the panel forwards its recommendation to the Council. If the Council approves the state's request, they send a letter to NMFS to request a concurrent closure of penaeid shrimp harvest in the EEZ waters adjacent to the requesting state. Once NMFS has determined the recommended closure is in accordance with the procedures and criteria specified in the FMP and the Magnuson-Stevens Act, NMFS implements the closure through a notification (temporary rule) in the **Federal Register**.

The revised procedures would allow a state to send its request with its supporting documentation for a concurrent closure of the EEZ to penaeid shrimp commercial harvest directly to NMFS. The RA would review the available information and confirm that the criteria and procedures are in accordance with the FMP and the Magnuson-Stevens Act before implementing a concurrent closure.

Overfished and Overfishing Status Determination Criteria for Pink Shrimp

Amendment 9 would update the overfished and overfishing status determination criteria (biomass at maximum sustainable yield (B_{MSY})) proxy for pink shrimp based on recent catch per unit effort (CPUE) data for the stock. Specifically, Amendment 9 would revise the B_{MSY} proxy for pink shrimp using the lowest CPUE value from the Southeast Area Monitoring and Assessment Program during the period 1990–2011 (0.089 individuals per hectare).

The Council has submitted Amendment 9 for Secretarial review, approval, and implementation. NMFS' decision to approve, partially approve, or disapprove Amendment 9 will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability. After consideration of these factors, and consistent with the Magnuson-Stevens Act and other applicable law, NMFS will publish a notice of agency action in the **Federal Register** announcing the Agency's decision to approve, partially approve, or disapprove Amendment 9, and the associated rationale.

Proposed Rule for Amendment 9

A proposed rule that would implement Amendment 9 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

Comments received by May 3, 2013, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision.

All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 27, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–04918 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 9, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received by April 3, 2013. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: 7 CFR Part 1924–A, Planning and Performing Construction and Other Development.

OMB Control Number: 0575–0042.

Summary of Collection: The Rural Housing Service (RHS) is the credit agency for rural housing and community development within the Rural Development mission area of the United States Department of Agriculture. RHS offers a supervised credit program to build modest housing and essential community facilities in rural areas. Section 501 of Title V of the Housing Act of 1949, authorizes the Secretary of Agriculture to extend financial assistance to construct, improve, alter, repair, replace, or rehabilitate dwellings, farm buildings and/or related facilities to provide decent, safe sanitary living conditions and adequate farm building and other structures in rural areas.

Need and Use of the Information: RHS provides several forms to assist in the collection and submission of information. The information will be used to determine whether a loan/grant can be approved; to ensure that RHS has adequate security for the loans financed; to monitor compliance with the terms and conditions of the agency loan/grant and to monitor the prudent use of Federal funds. If the information is not collected and submitted, RHS would have no control over the type and quality of construction and development work planned and performed with Federal funds.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local and Tribal Government.

Number of Respondents: 16,000.

Frequency of Responses: Recordkeeping; Report: On occasion.

Total Burden Hours: 74,297.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–04830 Filed 3–1–13; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Appointment of Members to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Appointment of members.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture announces the appointments made by the Secretary of Agriculture to fill 10 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Appointments by the Secretary of Agriculture are for 2-, or 3-year terms effective October 1, 2012.

ADDRESSES: National Agricultural Research, Extension, Education, and Economics Advisory Board; Research Extension, Education, and Economics Advisory Board Office, Room 3901, South Building, U.S. Department of Agriculture; STOP 3401; 1400 Independence Avenue SW., Washington, DC 20250–2255

FOR FURTHER INFORMATION CONTACT: Robert Burk, Executive Director, Research, Education, and Economics Advisory Board Office, Room 3901, South Building, U.S. Department of Agriculture; STOP 3401; 1400 Independence Avenue SW., Washington, DC 20250–2255 Telephone: 202–720–3684. Fax: 202–720–6199, or email: *robert.burk@usda.gov*.

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agricultural Improvement and Reform Act of 1996 authorized the creation of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The Board is composed of 25 members, each representing a specific category related to agriculture. The Board was first appointed in September 1996 and at the time one-third of the original members were appointed for one, two, and three-year term, respectively. Due to the staggered appointments, the terms for 9 of the 25 members expired September 30, 2012. One additional member position was

vacated mid-term. Each member is appointed by the Secretary of Agriculture to a specific category on the Board, including farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, non-land grant college or university with a historic commitment to research in the food and agricultural sciences, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. Appointees by vacancy category of the 10 appointments are as follows: Category A. ''National Farm Organization,'' Ralph Paige, Executive Director, Federation of Southern Cooperatives Land Assistance Fund, East Point, GA; Category C. ''Food Animal Commodity Producer,'' Wathina M. Luthi, Owner/Manager, Luthi Farms, LLC., Fargo, OK; Category E. ''National Aquaculture Association,'' Jeremy Liley, President/Aquatic Biologist, Liley Fisheries and Aquatic Consulting, Windsor, CO; Category I. ''National Human Health Association,'' Patsy Brannon, Professor/Nutritionist, Cornell University, Ithaca, NY; Category N. ''Non-Land Grant College or University w/historic commitment to research in food and agricultural sciences,'' Charles Boyer, Dean, Jordan College of Agriculture and Technology, California State University-Fresno, Fresno, CA; Category O. ''Hispanic-serving Institutions,'' Agnes Mojica, Chancellor, Inter American University of Puerto Rico, San Juan, PR; Category Q. ''Transportation of Food and Agricultural Products to domestic and foreign markets,'' Leo Holt, President, Holt Logistics Corporation, Gloucester City, NJ; Category R. ''Food Retailing and Marketing Interests,'' Nancy Childs, Professor of Food Marketing, Saint Joseph's University, Haub School of Business, Philadelphia, PA; Category S. ''Food and Fiber Processors,'' Julia Sabin, Vice President, J.M. Smucker, Akron, OH; and Category X. ''Private Sector Organization involved in International Development,'' Steven Hamburg, Chief Scientist, Environmental Defense Fund, New York, NY.

Done at Washington, DC, this 25th day of February 2013.

Catherine Woteki,

Under Secretary, Research, Education, and Economics.

[FR Doc. 2013–04884 Filed 3–1–13; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Trestle Forest Health Project, Eldorado National Forest, El Dorado County, CA

AGENCY: USDA Forest Service.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service, Eldorado National Forest will prepare an Environmental Impact Statement (EIS) for a proposal to modify vegetation on approximately 7,000 acres of National Forest System land. The purpose of the project is to modify the forest vegetation in order to put it on a trajectory toward the desired conditions for: (1) Reduced tree density; (2) sustained old forest conditions; (3) enhanced wildlife habitat; (4) reduced wildfire risk; (5) improved long-term scenic sustainability; (6) increased recreational opportunities; (7) enhanced riparian conservation areas; and, (8) maximized revenue derived from commercial products to perform essential and costly biomass removal, and to support the retention of local industrial infrastructure. The project area is located south-east of the community of Grizzly Flat, including the area surrounding Leoni Meadows, west of Caldor, and north of Big Mountain. The project is located entirely in El Dorado County, California in T.8N., R.13 E., in all or portions of Sections 1 and 2; T.8N., R.14 E., in all or portions of Sections 4–6; T.9N., R.13E., in portions of Section 1–3, 11–16, 19–30, 33–36; T.9N., R.14E., in all or portions of Sections 5–10, 14–22, 28–33; and T.10 N, R.13E., in all or portions of Sections 35 and 36; M.D.B & M.

DATES: Comments concerning the scope of the analysis should be received by April 8, 2013.

The draft environmental impact statement is expected November 2013 and the final environmental impact statement is expected May 2014.

ADDRESSES: Send written comments to Placerville Ranger District, 4260 Eight Mile Road, Camino, CA 95709. Attention: Trestle Forest Health Project. Comments may also be sent via email to *comments-pacificsouthwest-eldorado-placerville@fs.fed.us,* or via facsimile to (530) 647–5311.

FOR FURTHER INFORMATION CONTACT: Tim Howard, Project Leader, Placerville Ranger District, 4260 Eight Mile Road, Camino, California 95709, or telephone at (530) 647–5382. 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 Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose and need is to: (1) Improve the forest health across the project area; (2) reduce the fuel loading to reduce the threat of large high intensity wildfire and threats to Grizzly Flat, Leoni Meadows, and other landowners; (3) maintain and enhance the existing hardwood and late seral conifer component; (4) maintain and enhance scenic integrity and recreation opportunities; (5) treat hazardous fuels in a cost-effective manner to optimize treatment acres under a limited budget while fulfilling the role the Forest Service has in providing a wood supply for local manufacturers; (6) provide a maintainable level of forest access while closing unneeded roads and motorized trails to enhance wildlife habitat and reduce wildlife harassment; (7) enhance and maintain strategically placed area fuels treatments designed to slow the spread of wildfire; (8) enhance watershed conditions; (9) remove impediments to deer/wildlife movement; and, (10) improve winter range for the Grizzly Flat deer herd through reducing disturbance, improving forage to enhance winter survival, particularly that of pregnant does and fawns, providing thermal and security cover and utilizing updated deer management plan guidance.

Proposed Action

Conduct prescribed understory burning on approximately 15,287 acres. Activities would include construction of firelines by hand or tractor, and hand cutting ladder fuels around large old growth conifers, and oak trees.

Hand cut understory vegetation, pile and burn the piles on approximately 1,196 acres within 300 feet of private property boundaries in the Wildland Urban Interface (WUI) defense zones and within the threat and defense zones of the Steely Fork Cosumnes River drainage south of the community of Grizzly Flat. Hand treatments would still occur if mechanical treatment units are dropped from implementation.

Conduct danger tree removal adjacent to system roads and motorized trails open to the public, including landings, dispersed camping areas, and within treatment units, for public, woods workers, and Forest Service employee safety. Dead and unstable live trees that do not present a hazard would be retained.

Remove competing conifers from the understory and within 30 feet of the

perimeter of existing oak trees and/or groups of oaks.

Close approximately 53 miles of system roads and 4 miles of motorized trails previously determined to not be open to the public motorized use with barricades or gates. These roads would continue to be used for FS administrative traffic for follow-up prescribed burning and other activities.

Decommission approximately 5 miles of non-system roads and trails previously determined to not be open to public motorized use by obliterating, ripping, or hiding with woody debris.

Use a combination of ground based and skyline logging systems to conduct commercial thinning on approximately 4,653 acres (274 acres of skyline and 4,124 acres of ground based in natural stands, and 274 acres ground based in plantations). Ground-based mechanized equipment (low-impact feller-buncher, hand felling, and whole tree yarding with conventional skidding equipment) would be restricted to slopes generally less than 40%.

Where necessary during initial harvest, small trees and brush would be mechanically thinned to facilitate sawtimber and biomass removal. Skyline logging systems would be restricted to slopes generally over 40%.

Conduct pre-commercial thinning and mastication of competing brush on 184 acres of conifer plantations, of which, 19 acres are located in California spotted owl Protected Activity Centers (PACs) and 164 acres located outside of PACs.

Reconstruct approximately 73 miles of system roads and maintain approximately 30 miles of system roads. Reconstruction activities would involve the repair or replacement of inadequate drainage culverts, elimination of ruts, ditch repair, installation of waterbars and dips with inadequate water runoff control, gate installation to control seasonal use or replacement of existing non-functional gates or barricades, and removal of brush and small trees encroaching on roads.

Perform follow-up machine piling, and cutting small trees and brush with pile burning on approximately 2,000 acres in natural stands to reduce ground fuels and ladder fuels. Machine piling would occur only on slopes less than 40%. Piling locations would be determined after harvest activities are complete.

Reuse about 3 miles of existing temporary roads. After the temporary roads have served their use, they would be barricaded, obliterated and ripped to alleviate soil compaction, restore infiltration, and discourage unauthorized motor vehicle use.

Approximately 70 existing landings and any new landings constructed in this project would be ripped to minimize erosion problems, restore infiltration, and discourage unauthorized motor vehicle use.

Remove approximately 26 miles of barbed wire fencing, primarily from the vacant Caldor and Steely Creek Range Allotments. Materials that could be salvaged would be incorporated into future projects on the Forest and the remainder would be recycled.

Boulders would be placed to protect the Pleasant Valley Mariposa lily occurrence along Big Mountain Road from vehicle traffic.

Rehabilitate several dispersed camping areas and associated spur roads adjacent to Dogtown Creek and the Steely Fork Consumnes River. Activities would include, but not limited to, one or more of the following: Placement of boulders to define the foot print of the camping areas and close unnecessary spur roads; ripping of compacted areas and spur roads; construction of waterbars and/or other runoff control structures; placement of organic material on the ground surface of denuded areas, and planting of native vegetation.

Responsible Official

Forest Supervisor, Eldorado National Forest.

Nature of Decision To Be Made

The decision to be made is whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to improve forest health.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. To facilitate public participation, information about the proposed action will be mailed to all who express interest in the proposed action. It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: February 25, 2013.

Kathryn D. Hardy,

Forest Supervisor.

[FR Doc. 2013–04887 Filed 3–1–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[2/23/2013 through 2/26/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
Tesko Welding & Manufacturing Company, Inc.	7350 W Montrose Avenue, Norridge, IL 60706.	2/25/2013	The firm manufactures metal forms for sidewalk and curb concrete pouring in the construction industry.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE—Continued

[2/23/2013 through 2/26/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
Die-Tech, Inc.	295 Sipe Road, York Haven, PA 17370.	2/26/2013	Firm manufactures precision metal stampings used for terminals, edge clip connectors and contacts, pump and filter components.
Stacy Machine & Tooling, Inc.	2810 Industrial Lane, Broomfield, CO 80020.	2/26/2013	The company produces metal manufactured parts that are produced using CNC mills and lathes. Materials used include steel, aluminum, plastic and exotic metals.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: February 26, 2013.

Miriam Kearse,

Eligibility Examiner.

[FR Doc. 2013–04868 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–19–2013]

Foreign-Trade Zone 189—Kent/Ottawa/Muskegon Counties, MI, Notification of Proposed Production Activity, Southern Lithoplate, Inc., (Aluminum Printing Plates), Grand Rapids, Michigan

Southern Lithoplate, Inc. (SLP) submitted a notification of proposed production activity for their facility in Grand Rapids, Michigan. The notification conforming to the requirements of the regulations of the Board (15 CFR 400.22) was received on February 22, 2013.

The SLP facility is located within Site 10 of FTZ 189. The facility is used for the production of aluminum offset printing plates for the printing industry. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt SLP from customs duty payments on the foreign status components used in export production. On its domestic sales, SLP would be able to choose the duty rates during customs entry procedures that apply to aluminum printing plates (duty-free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Acrylate monomers, unsensitized emulsions and surfectants for photographic purposes; acrylic polymers; and aluminum coils (duty rate ranges from duty-free to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 15, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: February 26, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–04944 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 19, 2013, 9:00 a.m., Room 4830, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Opening remarks by Bureau of Industry and Security.
3. Export Enforcement update.
4. Regulations update.
5. Working group reports.
6. Automated Export System (AES) update.
7. Presentation of papers or comments by the Public.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than March 12, 2013.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or

after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 4, 2013, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: February 26, 2013.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2013–04937 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–932]

Certain Steel Threaded Rod From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review

SUMMARY: On February 7, 2013, the United States Court of International Trade (''CIT'') sustained the Department of Commerce's (''Department'') results of redetermination, which granted a separate rate to Gem-Year Industrial Co., Ltd. (''Gem-Year''), in the 2008–2010 administrative review of the antidumping duty order on certain steel threaded rod (''steel threaded rod'') from the People's Republic of China (''PRC''),[1] pursuant to the CIT's remand order in *Hubbell Power Systems, Inc.* v. *United States,* Court No. 11–00474, Slip Op. 12–123 (CIT 2012) (''*Hubbell*''). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken,*[2] as clarified by *Diamond Sawblades,*[3] the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *Final Results* and is amending the *Final Results.*[4]

DATES: *Effective Date:* February 19, 2013.

FOR FURTHER INFORMATION CONTACT: Seth Isenberg, Office 9, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0588.

SUPPLEMENTARY INFORMATION: On November 4, 2011, the Department issued its *Final Results.*[5] In the *Final Results,* the Department rescinded the review with respect to Gem-Year, noting that it had no suspended entries during the period of review (''POR'').[6]

In *Hubbell,* the CIT remanded the *Final Results* to the Department to reconsider its rescission of the review with respect to Gem-Year.[7] The Department then issued a remand redetermination finding that, while Gem-Year had no suspended entries during the POR, it demonstrated its independence from the government of the PRC and was qualified to receive a separate rate.[8] In its Redetermination, the Department assigned the separate rate of 55.16 percent to Gem-Year.[9]

On February 7, 2013, the CIT sustained the Department's Redetermination and entered final judgment accordingly.[10]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (''the Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's February 7, 2013, judgment sustaining the Department's Redetermination granting a separate rate to Gem-Year constitutes a final decision of that court that is not in harmony with the Department's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to the *Final Results,* the Department is amending its *Final Results.* The Department finds the following revised margin to exist:

STEEL THREADED ROD FROM THE PRC

Exporter	Weighted-average margin (percent)
Gem-Year Industrial Co., Ltd. ..	55.16

For Gem-Year, the cash deposit rate will be the rate listed above and the Department will instruct U.S. Customs and Border Protection (''CBP'') accordingly. If the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will also instruct CBP to assess antidumping duties on entries of the subject merchandise exported by Gem-Year during the POR at the rate listed above.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: February 25, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–04938 Filed 3–1–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–840]

Certain Orange Juice From Brazil; Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 4, 2013.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD

[1] *See Hubbell Power Systems, Inc.* v. *United States,* Court No. 11–00474, Slip Op. 13–20 (February 7, 2013) (''Final Remand''); Final Results of Remand Redetermination Pursuant To Remand Order (''Redetermination''), Court No. 11–00474, dated December 18, 2012.

[2] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*'').

[3] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades*'').

[4] *See Certain Steel Threaded Rod from the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 68400 (November 4, 2011) *(''Final Results'')* (review covering the period October 8, 2008, through March 31, 2010).

[5] *Id.*

[6] *See Final Results,* and accompanying Issues and Decision Memorandum at Comment 1.

[7] *See Hubbell,* at 6–19.

[8] *See* Redetermination.

[9] *Id.*

[10] *See Hubbell Power Systems, Inc.* v. *United States,* Court No. 11–00474, Slip Op. 13–20 (February 7, 2013).

Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3874.

SUPPLEMENTARY INFORMATION:

Amended Final Results

On August 11, 2008, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on certain orange juice (OJ) from Brazil.[1] The period of review (POR) is August 24, 2005, through February 28, 2007.

Following the publication of the final results, Fischer S.A. Comercio, Industria, and Agricultura (Fischer) filed a lawsuit with the United States Court of International Trade (CIT) challenging the Department's final results of administrative review. On April 6, 2010, the CIT remanded the case to reconsider the calculation of Fischer's constructed export price of not-from-concentrate orange juice (NFC) in light of certain evidence that the agency had previously rejected as untimely.[2] The CIT affirmed the final results in all other respects. *Id.* On May 24, 2010, the Department filed the remand results with the Court, in which it considered the new evidence and concluded that the new evidence did not warrant a change to the original calculation. On November 23, 2010, the CIT affirmed the remand results.[3]

Fischer appealed certain aspects of the CIT's April 6, 2010, decision before the Court of Appeals for the Federal Circuit (CAFC). On March 23, 2012, the CAFC affirmed in part and remanded in part.[4] The CAFC ordered the CIT to remand the case back to the Department to: (1) Accept certain additional new factual information, which was contained in Fischer's case brief and, if necessary, recalculate Fischer's antidumping duty margin; and (2) provide its reasoning for the continued use of ''zeroing'' in some proceedings but not others. *Id.*

On September 10, 2012, the parties submitted a joint status report to the CIT, in which they requested to delay the issuance of the remand order so that the parties could explore the possibility of settlement. On February 7, 2013, the United States, Fischer, and the petitioners entered into an agreement to settle this dispute and requested a stipulated judgment. On February 12, 2013, the CIT issued an order of stipulated judgment. Pursuant to the terms of the February 2013 agreement and the stipulated judgment, we are setting Fischer's weighted-average margin at 1.63 percent, based solely on the reconsideration of the new factual information contained in Fischer's case brief and without making any change with respect to zeroing. Consistent with the February 2013 agreement and the stipulated judgment, we will instruct U.S. Customs and Border Protection to liquidate Fischer's unliquidated entries during the POR in accordance with these amended final results. However, we will not use the margin of 1.63 percent to establish a revised cash deposit rate for Fischer because the antidumping duty order on OJ from Brazil was revoked on April 20, 2012, with an effective date of March 9, 2011.[5]

We are issuing this determination and publishing these amended final results and notice in accordance with 19 U.S.C. 1516a(e).

Dated: February 25, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–04935 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 46584 (Aug. 11, 2008).

[2] *See Fischer S.A. Comercio, Industria, and Agricultura* v. *United States,* 700 F. Supp. 1364, 1381 (Ct. Int'l Trade 2010).

[3] *See Fischer S.A. Comercio, Industria, and Agricultura* v. *United States,* 746 F. Supp. 1353, 1357 (Ct. Int'l Trade 2010).

[4] *See Fischer S.A. Comercio, Industria, and Agricultura* v. *United States,* 2012 U.S. App. LEXIS 6055 (CAFC March 23, 2012) (non-precedential opinion).

[5] *See Revocation of Antidumping Duty Order: Certain Orange Juice From Brazil,* 77 FR 23659 (April 20, 2012).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC507

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Central Gulf of Alaska Rockfish Program

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

ACTION: Notification of standard prices and fee percentage.

SUMMARY: NMFS publishes the standard ex-vessel prices and fee percentage for cost recovery under the Central Gulf of Alaska Rockfish Program. This action is intended to provide participants in a rockfish cooperative with the standard prices and fee percentage for the 2012 fishing year, which was authorized from May 1 through November 15. The fee percentage is 1.4 percent. The fee liability payments were due from each rockfish cooperative by February 15, 2013.

DATES: Effective March 4, 2013.

FOR FURTHER INFORMATION CONTACT: Gwen Herrewig, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The rockfish fisheries are conducted in Federal waters near Kodiak, AK, by trawl and longline vessels. Regulations implementing the Central Gulf of Alaska (GOA) Rockfish Program (Rockfish Program) are set forth at 50 CFR part 679. Exclusive harvesting privileges are allocated under the Rockfish Program for rockfish primary and secondary species. The rockfish primary species are northern rockfish, Pacific ocean perch, and pelagic shelf rockfish. The rockfish secondary species include Pacific cod, rougheye rockfish, shortraker rockfish, sablefish, and thornyhead rockfish. Rockfish cooperatives began fishing under the Rockfish Program on May 1, 2012.

The Rockfish Program is a type of limited access privilege program established under the provisions of section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Section 303A requires that NMFS collect fees for limited access programs to recover the actual costs directly related to management, data collection and analysis, and enforcement activities. Section 304(d)(2) of the MSA requires that NMFS collect fees for the Rockfish Program equal to the actual costs directly related to management, enforcement and data collection (management costs). Section 304(d)(2) of the MSA also limits the cost recovery fee so that it may not exceed 3 percent of the ex-vessel value of the fish harvested under the Rockfish Program.

Standard Prices

NMFS calculates cost recovery fees based on standard ex-vessel value price, rather than actual price data provided by each rockfish cooperative quota (CQ) holder. Use of a standard ex-vessel price is allowed under sections 303A and 304(d)(2) of the MSA. NMFS generates a standard ex-vessel price for each rockfish primary and secondary species on a monthly basis to determine the average price paid per pound for all shoreside processors receiving rockfish primary and secondary species CQ.

Regulations at § 679.85(b)(2) require the Regional Administrator to publish rockfish standard ex-vessel values during the first quarter of each calendar year. The standard prices are described in U.S. dollars per pound for rockfish primary and secondary species CQ landings made during the previous year.

Fee Percentage

NMFS assesses a fee on the standard ex-vessel value of rockfish primary species and rockfish secondary species CQ harvested by rockfish cooperatives in the Central GOA and waters adjacent to the Central GOA when rockfish primary species caught by a cooperative is deducted from the Federal total allowable catch. The rockfish entry level longline fishery and opt-out vessels are not subject to cost recovery fees. Specific details on the Rockfish Program's cost recovery provision may be found in the implementing regulations set forth at § 679.85.

NMFS informs each rockfish cooperative of the fee percentage applied to the previous year's landings and the total amount due through a letter. Fees are due on February 15 of each year. Failure to pay on time would result in the permit holder's QS becoming non-transferable and the person would be ineligible to receive any additional QS by transfer. In addition, cooperative members would not receive any rockfish CQ the following year until full payment of the fee liability is received by NMFS.

NMFS calculates and publishes in the **Federal Register** the fee percentage in the first quarter of each year according to the factors and methodology described in Federal regulations at § 679.85(c)(2). NMFS determines the fee percentage that applies to landings made in the previous year by dividing the total actual costs during the previous year by the total value of the rockfish primary species and rockfish secondary species for all rockfish cooperatives made during the previous year. NMFS captures the actual cost of managing the fishery through an established accounting system that allows staff to track labor, travel, and procurement. Fee collections for any given year may be less than, or greater than, the actual costs and fishery value for that year, because, by regulation, the fee percentage is established in the first quarter of the calendar year based on the fishery value and the costs of the previous calendar year. The rockfish fee percentage amount must not exceed 3.0 percent pursuant to 16 U.S.C. 1854(d)(2)(B). This is the first year of fee collection under the Rockfish Program.

Using the fee percentage formula described above, the estimated percentage of costs to value for the 2012 calendar year is 1.4 percent of the standard ex-vessel value.

TABLE 1—STANDARD EX-VESSEL PRICES BY SPECIES FOR THE 2012 ROCKFISH PROGRAM SEASON IN KODIAK, ALASKA

Species	Period ending	Standard ex-vessel price per pound
Pelagic shelf rockfish *	May 31	0.26
	June 30	0.27
	July 31	0.27
	August 31	0.26
	September 30	0.26
	October 31	0.27
	November 30	0.26
Northern rockfish	May 31	0.26
	June 30	0.27
	July 31	0.27
	August 31	0.27
	September 30	0.27
	October 31	0.27
	November 30	0.27
Pacific cod	May 31	0.30
	June 30	0.28
	July 31	0.35
	August 31	0.31
	September 30	0.28
	October 31	0.28
	November 30	0.27
Pacific ocean perch	May 31	0.26
	June 30	0.26
	July 31	0.27
	August 31	0.27
	September 30	0.27
	October 31	0.27
	November 30	0.27
Rougheye rockfish	May 31	0.27
	June 30	0.19
	July 31	0.14
	August 31	0.15
	September 30	0.01
	October 31	0.15
	November 30	0.30
Sablefish	May 31	4.16
	June 30	3.63

TABLE 1—STANDARD EX-VESSEL PRICES BY SPECIES FOR THE 2012 ROCKFISH PROGRAM SEASON IN KODIAK, ALASKA—Continued

Species	Period ending	Standard ex-vessel price per pound
	July 31	2.25
	August 31	2.52
	September 30	2.61
	October 31	2.20
	November 30	2.19
Shortraker rockfish	May 31	0.26
	June 30	0.26
	July 31	0.23
	August 31	0.25
	September 30	** 0.26
	October 31	0.30
	November 30	0.27
Thornyhead rockfish	May 31	0.59
	June 30	0.48
	July 31	0.29
	August 31	0.16
	September 30	0.20
	October 31	0.60
	November 30	0.11

* The pelagic shelf rockfish (PSR) species group has been changed to ''dusky rockfish'' in some NMFS publications, such as the 2012 and 2013 groundfish harvest specifications for the GOA (77 FR 10669, February 23, 2012). The North Pacific Fishery Management Council recommended the removal of widow and yellowtail rockfish from the PSR species group at its October 2011 meeting, leaving the single species, dusky rockfish. NMFS intends to propose GOA fishery management plan and regulatory amendments to dissolve the PSR species group and substitute a description of the dusky rockfish target fishery, and revise the description of the ''other rockfish'' fishery in the GOA fishery management plan to include widow and yellowtail rockfish.

** NMFS uses the average annual price when no landings are reported.

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

Dated: February 27, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–04920 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC531

Caribbean 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 Caribbean Fishery Management Council's (CFMC) Outreach and Education Advisory Panel (OEAP) will hold a meeting.

DATES: The OEAP meeting will be held on March 22, 2013, from 10 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the CFMC Offices, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The OEAP will meet to discuss the items contained in the following agenda:

- Call to order
- Review Status of:
  —Web page
  —Newsletter
  —CFMC Brochure
  —St. Croix Fuete y Verguilla Edition
- Education/Enforcement:
  —Commercial Sector
  —Recreational Sector
- Advisory Panel Membership
- Other Business
- Next OEAP meeting

The OEAP will convene on March 22, 2013, from 10 a.m. until 5 p.m. The meeting is open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: February 27, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–04889 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC519

Endangered Species; File No. 17405

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that David Lapota, Ph.D., Department of the Navy, SPAWAR Systems Center, Pacific, Environmental Sciences Division, 53475

Strothe Road, San Diego, CA 92152 has applied in due form for a permit to take black abalone (*Haliotis cracherodii*) for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before April 3, 2013.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 17405 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division

- By email to *NMFS.Pr1Comments@noaa.gov* (include the File No. 17405 in the subject line of the email),
- By facsimile to (301) 713–0376, or
- At the address listed above.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Rosa L. González, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The purpose of the proposed research is to overcome key barriers to captive propagation of the endangered black abalone (focusing on successful spawning, increased fertilization, increased settlement, and recruitment). No black abalone will be taken from the wild, nor will animals be returned to the wild under this request. All animals will come from existing captive populations. A permit is requested for five years.

Dated: February 27, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–04926 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Legal Processes

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 3, 2013.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0046 comment'' in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Shirley Hassan, Office of General Law, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–3000; or by email to *Shirley.Hassan@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this collection is to cover information requirements related to civil actions and claims involving current and former employees of the United States Patent and Trademark Office (USPTO). The rules for these legal processes may be found under 37 CFR Part 104, which outlines procedures for service of process, demands for employee testimony and production of documents in legal proceedings, reports of unauthorized testimony, employee indemnification, and filing claims against the USPTO under the Federal Tort Claims Act (28 U.S.C. 2672) and the corresponding Department of Justice regulations (28 CFR part 14). The public may also petition the USPTO Office of General Counsel under 37 CFR 104.3 to waive or suspend these rules in extraordinary cases.

The procedures under 37 CFR part 104 ensure that service of process intended for current and former employees of the USPTO is handled properly. The USPTO will only accept service of process for an employee acting in an official capacity. This collection is necessary so that respondents or their representatives can serve a summons or complaint on the USPTO, demand employee testimony and documents related to a legal proceeding, or file a claim under the Federal Tort Claims Act. Respondents may also petition the USPTO to waive or suspend these rules for legal processes. This collection is also necessary so that current and former USPTO employees may properly forward service and demands to the Office of General Counsel, report unauthorized testimony, and request indemnification. The USPTO covers current employees as respondents under this information collection even though their responses do not require approval under the Paperwork Reduction Act. In those instances where both current and former employees may respond to the USPTO, the agency estimates that the number of respondents will be small.

There are no forms provided by the USPTO for this collection. For filing claims under the Federal Tort Claims Act, the public may use Standard Form 95 ''Claim for Damage, Injury, or Death,'' which is provided by the Department of Justice and approved by the Office of Management and Budget (OMB) under OMB Control Number 1105–0008.

II. Method of Collection

By mail or hand delivery to the USPTO.

III. Data

OMB Number: 0651–0046.

Form Number(s): None.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; and the Federal Government.

Estimated Number of Respondents: 299 responses per year. The USPTO

estimates that approximately 10% of these responses will be from small entities.

Estimated Time per Response: The USPTO estimates that it will take the public from 5 minutes (0.08 hours) to 6 hours to gather the necessary information, prepare the appropriate documents, and submit the information required for this collection.

Estimated Total Annual Respondent Burden Hours: 88 hours.

Estimated Total Annual Respondent Cost Burden: $32,354. The USPTO expects that the information in this collection will be prepared by attorneys and former employees, except for the requests for employee indemnification, which generally come from professional and supervisory staff. Since many of the former employees affected by this collection are attorneys, the estimated rate of $371 per hour for attorneys will be used for former employees as well. The USPTO estimates that the respondent cost burden for attorneys and former employees submitting the information in this collection will be $32,277 per year.

Using the estimate of $77 per hour for professional and supervisory staff, the USPTO expects that the respondent cost burden for submitting requests for employee indemnification will be $77 per year. Therefore, the USPTO estimates that the total respondent cost burden for this collection will be approximately $32,354 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Petition to Waive Rules	30 minutes	5	3
Service of Process	5 minutes	243	19
Forwarding Service	10 minutes	7	1
Employee Testimony and Production of Documents in Legal Proceedings	1 hour	23	23
Forwarding Demands	10 minutes	10	2
Report of Unauthorized Testimony	30 minutes	1	1
Report of Possible Indemnification Cases	30 minutes	3	2
Employee Indemnification	30 minutes	1	1
Tort Claims	6 hours	6	36
Totals		299	88

Estimated Total Annual Non-hour Respondent Cost Burden: $3,436. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

This collection has filing fees associated with the petition to waive or suspend the legal process rules under 37 CFR 104.3. The USPTO estimates that approximately 5 petitions will be filed per year with a fee of $130, for a total fee cost of $650. There are no other fees associated with this information collection.

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage for a mailed submission, other than a Service of Process, will be 92 cents and that up to 56 of these submissions will be mailed to the USPTO per year, for a postage cost of $52. The USPTO estimates that the average postage for a Service of Process will be $11.25 and that up to 243 of these submissions will be mailed to the USPTO per year, for a postage cost of $2,734. The total estimated postage cost for this collection is approximately $2,786 per year.

The total annual (non-hour) respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be approximately $3,436 per year.

IV. 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.

The USPTO is soliciting public comments to:

(a) 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; (b) 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; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Dated: February 27, 2013.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2013–04867 Filed 3–1–13; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 13–C0004]

Kolcraft Enterprises, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Kolcraft Enterprises, Inc., containing a civil penalty of $400,000.00, within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by March 19, 2013.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 13–C0004, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Richa Shyam Dasgupta, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7798.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: February 27, 2013.

Todd A. Stevenson,

Secretary.

Settlement Agreement and Order

1. In accordance with the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051–2089, (CPSA), and 16 CFR 1118.20, Kolcraft Enterprises, Inc. (Kolcraft) and staff (staff) of the United States Consumer Product Safety Commission (Commission or CPSC) hereby enter into this Settlement Agreement (Agreement). The Agreement and the attached Order resolve staff's allegations set forth below.

The Parties

2. Staff is the staff of the Commission, an independent federal regulatory agency established pursuant to, and responsible for, enforcement of the CPSA.

3. Kolcraft is a privately-held company, organized and existing under the laws of the state of Delaware, with its principal office located in Chicago, IL.

4. Kolcraft is a small business as set forth in the Small Business Administration guidelines regarding size of business.

Staff Allegations

5. Between 2000 and 2009, Kolcraft imported approximately 1 million play yards (the ''Play Yards'') and distributed them nationwide through major retailers and Internet sales.

6. The Play Yards are ''consumer products'' and, at all relevant times, Kolcraft was a ''manufacturer'' of ''consumer products,'' of the subject Play Yards, which were ''distribute[d] in commerce,'' as those terms are defined or used in sections 3(a)(5), (8), and (11) of the CPSA, 15 U.S.C. 2052(3)(a)(5), (8), and (11).

7. The Play Yards are defective because the side rail of a Play Yard can fail to latch properly, and when a child pushes against the rail, the rail can unlatch unexpectedly, posing a fall hazard to children.

8. From 2000 through July 2009, Kolcraft received approximately 350 reports of Play Yards collapsing unexpectedly, including 21 incidents that resulted in injuries to young children.

9. In July 2005, Kolcraft engaged failure analysis experts to examine and test the latching system on the Play Yards. By August 2005, these experts had identified the potential for false latching.

10. During 2006, Kolcraft made prospective improvements to the warning labels, instruction sheets, and the side-rail latch to eliminate false latching in future production of the Play Yards. None of these improvements addressed the potential for false latching that existed in the more than 880,000 Play Yards in commerce at the time.

11. Kolcraft waited until January 15, 2009, however, to report to the CPSC regarding the Play Yards.

12. On July 8, 2009, Kolcraft, in cooperation with the CPSC, announced a recall of the Play Yards.

13. Well before January 15, 2009, Kolcraft had obtained sufficient information to reasonably support the conclusion that the Play Yards contained a defect that could create a substantial product hazard, or created an unreasonable risk of serious injury or death; yet, Kolcraft failed to inform the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. 2064(b)(3) and (4). In failing to inform the Commission immediately of the defect or risk involving the Play Yards, Kolcraft knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

14. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Kolcraft is subject to civil penalties for its knowing failure to report, as required under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

Response of Kolcraft

15. The Firm denies staff's allegations that it knew that the Subject Products contained a defect which could create a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further denies that it knowingly violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b).

Agreement of the Parties

16. Under the CPSA, the Commission has jurisdiction over this matter and over Kolcraft.

17. The parties enter this Agreement for settlement purposes only. The Agreement does not constitute an admission by Kolcraft or a determination by the Commission that Kolcraft knowingly violated the CPSA.

18. In settlement of staff's allegations, Kolcraft shall pay a civil penalty in the amount of four hundred thousand dollars ($400,000.00) (Settlement Amount). The civil penalty shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made to the CPSC via: *www.pay.gov.*

19. Upon provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the **Federal Register**, in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

20. Upon the Commission's final acceptance of the Agreement and issuance of the Order, Kolcraft knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (a) An administrative or judicial hearing; (b) judicial review or other challenge or contest of the Commission's actions; (c) a determination by the Commission of whether Kolcraft failed to comply with the CPSA and the underlying regulations; (d) a statement of findings of fact and conclusions of law; and (e) any claims under the Equal Access to Justice Act.

21. Kolcraft shall maintain and enforce a system of internal controls and procedures designed to ensure that: (i) Information required to be disclosed by Kolcraft to the Commission is recorded, processed and reported in accordance with applicable law; (ii) all reporting made to the Commission is timely, truthful, complete and accurate; and (iii) prompt disclosure is made to Kolcraft's management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to adversely affect in any material respect Kolcraft's ability to record, process and report to the Commission in accordance with applicable law.

22. Upon request of Staff, Kolcraft shall provide written documentation of such improvements, processes, and controls, including, but not limited to, the effective dates of such improvements, processes, and controls. Kolcraft shall cooperate fully and truthfully with Staff and shall make available all information, materials, and

personnel deemed necessary by Staff to evaluate Kolcraft's compliance with the terms of the Agreement.

23. Kolcraft shall implement and maintain a compliance program designed to ensure compliance with the safety statutes and regulations enforced by the CPSC that, at a minimum, contains the following elements (i) written standards and policies; (ii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary; (iii) effective communication of company compliance-related policies and procedures to all employees through training programs or otherwise; (iv) senior manager responsibility for compliance; (v) board oversight of compliance (if applicable); and (vi) retention of all compliance-related records for at least five (5) years and availability of such records to CPSC upon request.

24. The Commission may publicize the terms of the Agreement and the final Order.

25. The Agreement and the final Order shall apply to, and be binding upon, Kolcraft, and each of its successors and/or assigns.

26. The Commission issues the final Order under the provisions of the CPSA, and a violation of the final Order may subject Kolcraft, and each of its successors and/or assigns, to appropriate legal action.

27. The Agreement may be used in interpreting the final Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict the terms or the Agreement and the final Order. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto, executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

28. If any provision of the Agreement or the final Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the final Order, such provision shall be fully severable. The balance of the Agreement and the final Order shall remain in full force and effect, unless the Commission and Kolcraft agree that severing the provision materially affects the purpose of the Agreement and final Order.

29. This Agreement may be signed in counterparts.

Dated: February 25, 2013.

Kolcraft Enterprises, Inc.

By: _____

Thomas Koltun,

President, Kolcraft Enterprises, Inc.

Dated: February 26, 2013.

By: _____

Erika Z. Jones, Esq.,

Counsel to Kolcraft Enterprises, Inc., Mayer Brown LLP, Washington, DC

U.S. Consumer Product Safety Commission Staff

Stephanie Tsacoumis,

General Counsel.

Mary B. Murphy,

Assistant General Counsel, Divisions of Compliance and Import Surveillance.

Dated: February 27, 2013.

By: _____

Richa Shyam Dasgupta,

Trial Attorney, Division of Compliance, Office of the General Counsel.

Order

Upon consideration of the Agreement entered into between Kolcraft Enterprises, Inc. (''Kolcraft''), and U.S. Consumer Product Safety Commission (Commission) staff, and the Commission having jurisdiction over the subject matter and over Kolcraft, and it appearing that the Agreement and the Order are in the public interest, it is

Ordered that the Agreement be, and hereby, is accepted; and it is

Further ordered, that Kolcraft shall pay a civil penalty in the total amount of four hundred thousand dollars ($400,000.00), paid within twenty (20) days of service of the Commission's Order upon counsel for Kolcraft. The payments shall be made electronically to the CPSC via: *www.pay.gov*. Upon the failure of Kolcraft to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Kolcraft at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b). If Kolcraft fails to make such payment or to comply in full with any other provision as set forth in the Agreement, such conduct will be considered a violation of this Agreement and Order.

Provisionally accepted and provisional Order issued on the 27th day of February 2013.

By order of the Commission.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2013–04909 Filed 3–1–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Missouri River (South Dakota) Task Force.

SUMMARY: Under the provisions of 10 U.S.C. 2166(e), the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50(a), the Department of Defense gives notice that it is renewing the charter for the Missouri River (South Dakota) Task Force (''the Task Force'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Task Force shall provide independent advice and recommendations on a plan and accompanying critical restoration projects to reduce siltation of the Missouri River in the State of South Dakota and to meet the objectives of the Pick-Sloan program. Specifically, the Task Force shall:

a. Prepare and approve, by a majority of the members, a plan for the use of the funds made available under Public Law 106–541, to promote conservation practices in the Missouri River watershed, control and remove the sediment from the Missouri River, protect recreation on the Missouri River from sedimentation, protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion, erosion control along the Missouri River, or any combination of the activities just described;

b. Develop and recommend to the Secretary of the Army for implementation critical restoration projects meeting the goals of the plan; and

c. Determine whether these critical restoration projects primarily benefit the Federal Government for purposes of cost-sharing.

The Task Force shall report to the Secretary of the Army. The Secretary of the Army may act upon the Task Force's advice and recommendations. As prescribed by Section 905(b) of the Missouri River Restoration Act of 2000, the Task Force shall be composed of not more than 29 members. Specifically, the Task Force membership shall be composed of the Secretary of the Army or designee, who shall serve as the Chairperson; Secretary of Agriculture or

designee; Secretary of Energy or designee; Secretary of the Interior or designee; and the Trust.

The Trust is composed of 25 members to be appointed by the Secretary of the Army, including 15 members recommended by the Governor of South Dakota that represent equally the various interest of the public and include representatives of: The South Dakota Department of Environment and Natural Resources; the South Dakota Department of Game, Fish, and Parks; environmental groups; the hydroelectric power industry; local governments; recreation user groups; agricultural groups; other appropriate interests; nine members, one of each of whom shall be recommended by each of the nine Indian Tribes in the State of South Dakota; and one member recommended by the organization known as the ''Three Affiliated Tribes of North Dakota'' (composed of the Mandan, Hidatsa, and Arikara tribes).

The members of the Trust shall be appointed by the Secretary of the Army as representative members to the Task Force. All representative members of the Trust shall be appointed for a two-year term of service; however, no member, unless authorized by the Secretary of the Army, may serve more than two consecutive terms of service. In addition, all Task Force members shall, with the exception of travel and per diem for official travel, serve without compensation. DoD, when necessary and consistent with the Task Force's mission and DoD policies and procedures, may establish subcommittees, task groups, and working groups to support the Task Force. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Army.

Such subcommittees shall not work independently of the Task Force, and shall report all their recommendations and advice to the Task Force for full deliberation and discussion. Subcommittees have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Task Force; nor can any subcommittee or its members update or report directly to the DoD or any Federal officers or employees.

The Secretary or the Deputy Secretary of Defense may approve the appointment of subcommittee members for two-year term of service with annual renewals; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service. These individuals may come from the Task Force or may be new nominees, as recommended by the Secretary of the Army and based upon the subject matters under consideration.

Subcommittee members, if not full-time or part-time Government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and shall serve as SGEs, whose appointments must be renewed by the Secretary of Defense on an annual basis. With the exception of travel and per diem for official travel related to the Task Force or its subcommittee, subcommittee members shall serve without compensation.

Each subcommittee member is appointed to provide advice to the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies and procedures.

The Task Force shall meet at the call of the Task Force's Designated Federal Officer (DFO), in consultation with the Chairperson. The estimated number of Task Force meetings is no less than two per year.

In addition, the DFO is required to be in attendance at all Task Force and subcommittee meetings for the entire duration of each and every meeting; however, in the absence of the DFO, the Alternate DFO shall attend the entire duration of the Task Force or subcommittee meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Task Force membership about the Task Force's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Task Force.

All written statements shall be submitted to the DFO, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Task Force's DFO can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Task Force. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: February 27, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–04882 Filed 3–1–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0020]

Agency Information Collection Activities: Direct Loan, FFEL, Perkins and TEACH Grant Total and Permanent Disability Discharge Forms

AGENCY: The Office of Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before May 3, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0020 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is

soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Direct Loan, FFEL, Perkins and TEACH Grant Total and Permanent Disability Discharge Forms.

OMB Control Number: 1845–0065.

Type of Review: a revision of a currently approved information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 254,800.

Total Estimated Number of Annual Burden Hours: 127,400.

Abstract: The Discharge Application: Total and Permanent Disability serves as the means by which an individual who is totally and permanently disabled, as defined in section 437(a) of the Higher Education Act of 1965, as amended, applies for discharge of his or her Direct Loan, FFEL, or Perkins loan program loans, or TEACH Grant service obligation. The form collects the information that is needed by the U.S. Department of Education (the Department) to determine the individual's eligibility for discharge based on total and permanent disability. The Total and Permanent Disability Discharge: Post-Discharge Monitoring form serves as the means by which an individual who has received a total and permanent disability discharge provides the Department with information about his or her annual earnings from employment during the 3-year post-discharge monitoring period that begins on the date of discharge. The Total and Permanent Disability Discharge: Applicant Representative Designation form serves as the means by which an applicant for a total and permanent disability discharge may (1) designate a representative to act on his or her behalf in connection with the applicant's discharge request, (2) change a previously designated representative, or (3) revoke a previous designation of a representative.

Dated: February 26, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–04883 Filed 3–1–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID: ED–2013–OESE–0016]

Request for Information To Gather Technical Expertise Pertaining to the Identification and Placement of Native American Students Who Are English Learners in Language Instruction Educational Programs

AGENCY: Office of Elementary and Secondary Education, U.S. Department of Education.

ACTION: Request for information.

SUMMARY: The U.S. Department of Education (the Department) requests information about practices used to accurately identify Native American students in grades K–12 as English learners and to appropriately place these students in language instruction educational programs (LIEPs). The Department makes this request to help State educational agencies (SEAs), local educational agencies (LEAs), schools, tribes, and other interested entities identify, share, and implement practices for accurately identifying Native American students who are English learners.

DATES: Written submissions must be received by the Department on or before 5:00 p.m., Washington, DC time, on May 3, 2013.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID and the term ''Identification of English Learner Native American Students response'' at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to this site?''

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments, address them to Supreet Anand, Office of Elementary and Secondary Education, Attention: Native American English Learner RFI, U.S. Department of Education, 400 Maryland Avenue SW., room 3W106, Washington, DC 20202–6132.

• *Privacy Note:* The Department's policy for comments received from members of the public (including comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

Submission of Proprietary Information: Given the subject matter, some comments may include proprietary information as it relates to confidential commercial information. The Freedom of Information Act defines ''confidential commercial information'' as information the disclosure of which could reasonably be expected to cause substantial competitive harm. You may wish to request that we not disclose what you regard as confidential commercial information.

To assist us in making a determination on your request, we encourage you to identify in your comments any specific information that you consider confidential commercial information. Please list the information by page and paragraph numbers.

This Request for Information (RFI) is issued solely for information and planning purposes and is not a request for proposals (RFPs) or a promise to issue an RFP or a notice inviting applications. This RFI does not commit the Department to contract for any supply or service. Further, the Department is not now seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI.

If you do not respond to this RFI, you may still apply for future contracts and grants. The Department posts RFPs on the Federal Business Opportunities Web site (*www.fbo.gov*). The Department announces grant competitions in the **Federal Register** (*www.gpo.gov/fdsys*). It is your responsibility to monitor these sites to determine whether the Department issues an RFP or notice inviting applications after considering the information received in response to this RFI.

The documents and information submitted in response to this RFI

become the property of the U.S. Government and will not be returned.

FOR FURTHER INFORMATION CONTACT: Supreet Anand, U.S. Department of Education, 400 Maryland Avenue SW., room 3W106, Washington, DC 20202–6132. Telephone: 202–401–9795.

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:

1. Introduction

The purpose of title III, part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA) is to help ensure that children who are limited English proficient (LEP) attain English language proficiency and meet the same State academic content and achievement standards all children are expected to meet. One of the President's education goals is for American students, including Native American students, to be first in the world in college completion by 2020.

At present, however, Native American students, compared to non-Native American peers, face substantial achievement gaps (U.S. Department of Education, November 30, 2011). The National Caucus of Native American State Legislators has described the state of education for Native American students as ''distressing,'' pointing to academic achievement that is two to three years behind that of their white peers, high dropout and expulsion rates, and low college-completion rates (National Caucus of Native American State Legislators, 2008). On the 2011 National Assessment of Educational Progress, for example, Native American students in grade four performed lower in reading than any other group of students. Native American students also have higher dropout rates than other students. According to the 2010 American Community Survey, the percentage of dropouts for ages 16 through 24 was 14.9 percent for Native American students compared with 5.1 percent for white students and 9.1 percent for black students (Institute of Education Sciences, American Community Survey).

With this RFI the Department is taking several steps to collect information and gather suggestions to help SEAs, LEAs, schools, tribes, and other entities identify, share, and implement practices for accurately identifying Native American students who are English learners so that more Native American students will be college- and career-ready.

First, we pose a series of questions—to which we invite interested members of the public to respond—about identifying Native American students as English learners.

Second, the Department will host a Web dialogue and conference call during which external experts and the public can engage in further discussion on accurate identification of Native American English learners.

Third, the Department will make available to the public the information collected from this RFI and the Web dialogue and conference call, as well as other resources identified by external experts participating in the Web dialogue and conference call.

2. Definitions

The following definitions apply to this RFI. Statutory definitions are indicated by the citation at the end of the definition.

English learner means a student who is limited English proficient.

Limited English proficient (LEP) means an individual—

(A) Who is aged 3 through 21;

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) *Who is a Native American or Alaska Native or a native resident of the outlying areas; and*

(II) *Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency;* or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; *and*

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3) of the ESEA;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society. (section 9101(25) of the ESEA, 20 U.S.C. 7801(25)) (*emphasis added*).

Native American means an individual who is Indian, Alaska Native, Native Hawaiian, Native American Pacific Islander, or a native resident of the outlying areas (20 U.S.C. 7801(25) and (28); 20 U.S.C. 7491(3); 25 U.S.C. 2902).

3. Discussion

In this RFI we specifically inquire into practices regarding: (1) Accurate initial identification of Native American students who are English learners; (2) the use of a survey of primary or home language other than English (PHLOTE survey), as well as other methods, in identifying Native American students as potential English learners for the purpose of placement in a LIEP; (3) the use of multi-step processes for identifying Native American English learners; and (4) defining significant impact of a Native American language on English language proficiency and implementing that definition for determination of English language proficiency.

To be eligible as LEP under the ESEA, Native American students must not only meet the significant impact requirement in section 9101(25)(C)(ii) of the ESEA; they must also meet the eligibility requirement in subparagraph (D) of that section. In this RFI we focus on the significant impact requirement.

Accurate identification of English learner students is essential to ensure that these students receive the services necessary to meaningfully access an educational program, as required under title VI of the Civil Rights Act of 1964 (Civil Rights Act), and the services for which they are eligible under title III, part A of the ESEA. Under the ESEA and title VI, Native American students who come from an environment in which a language other than English has had a significant impact on English language proficiency may be identified as English learners. Even if a Native American child does not speak the language of his or her tribe, this language may still have a significant impact on his or her English mastery (Leap, 1993). Language impact may manifest itself in the way a student constructs meaning or applies syntax or vocabulary.

All States at the very least recommend, if not require, the use of a PHLOTE survey as a first step in identifying which students may need to take an English language proficiency assessment (Bailey and Kelly, 2010). A student's performance on that assessment helps determine whether she or he is identified as an English learner student. Any methods used to identify Native American students as English learners must be objective, valid, and reliable. This includes both initial identification as English learners and identification after an initial identification as non-English learners based on academic performance. Section 3302(f) of the ESEA provides

that a child not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

Researchers including Bailey and Kelly (2010) have pointed to the great variability in the use of PHLOTE surveys, both across and within States, thereby calling into question the validity of the process for identifying students as English learners. Some States permit local variability in the questions included in the PHLOTE survey. As PHLOTE surveys are individually and locally administered, the variability in their administration is also great. Families may vary their responses to these surveys, indicating in one year that a language other than English is spoken at home and, in another year that it is not.

Use of PHLOTE surveys with Native American students is particularly complex due to the current status of many Native American languages; e.g., the child may not speak the language in the home but may have a relative who does, or may have grown up in an environment in which the syntax, rhetorical style, and sociolinguistic patterns reflect the significant impact of the language. Additionally, among some communities, there may be a hesitancy to disclose Native American heritage or use of a Native American language (Weaver, 2001). As a result of these factors, Native American students may be incorrectly identified as English learners or as non-English learners upon their entry into school, and educators may find at a later point in a child's educational career that she or he has not been appropriately placed in a LIEP, or in a mainstream classroom with supports, as needed.

Under title VI of the Civil Rights Act and related requirements, school districts must provide meaningful access to educational programs for children who are English learners. Further, the Office for Civil Rights memorandum of May 25, 1970, states that:

> Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

''Identification of Discrimination and Denial of Services on the Basis of National Origin,'' Department of Health, Education, and Welfare, 35 FR 11,595 (July 18, 1970).

Accurate identification of students as English learners is critical to compliance with the requirements (1) to properly serve and identify English learners under title VI of the Civil Rights Act and (2) to provide appropriate services under title III, part A of the ESEA.

Accordingly, SEAs, LEAs, and schools have an interest in, and must share responsibility for, developing and implementing practices that correctly identify all students, including Native American students, who are English learners. According to the 2010 U.S. Census, 5.2 million Americans identify themselves as Native American. This is an increase of 1.1 million since the 2000 Census. The 2010 Census also indicates that 28 percent of Native Americans ages 5 and older speak a language other than English at home, as compared to 21 percent of the population of the Nation as a whole. Recent estimates indicate that approximately 200 Native American languages are ''living languages''; i.e., currently spoken (Bright, 2004; Encyclopedia Britannica, 2012).

Due to its responsibilities under title VI of the Civil Rights Act of 1964 and title I, part A and title III, part A of the ESEA, the Department also has a role in supporting development and implementation of practices that correctly identify students, including Native American students, as English learners. For these reasons this RFI seeks solutions; advice; technical information; legal, regulatory, and policy approaches; and other information from the public about practices for accurately identifying Native American students who are English learners. Through this RFI, the Department also seeks to gather information and suggestions for SEAs, LEAs, and schools on how to address these issues. The Department welcomes input from SEAs, LEAs, and schools, as well as from tribes, researchers, and other organizations or individuals.

In addition, the Department will host a Web dialogue and conference call to engage external experts in an in-depth discussion about these issues. Responses to the RFI will be shared with the external experts and the public to inform the planning for the Web dialogue and conference call. Following the initial Web dialogue and conference call, the Department will decide the format and process through which to make available the collected public input. This format could include an online link to all submissions, a document summarizing this information, a question-and-answer document to be posted on the Department's Web site, further Webinars, or other methods.

4. Context for Responses

4.1 The primary goal of this RFI is to gather information that will help SEAs and LEAs better understand existing practices for identifying Native American students who are English learners. Because the questions in section 4.2 of this notice are only guides to helping us better understand the issues surrounding identification of Native American students who are English learners, you do not have to respond to any specific question. You may provide comments in any convenient format. You may also provide relevant information that is not responsive to a particular question but may, nevertheless, be helpful.

4.2 Questions Regarding the Identification of Native American Students Who are English Learners

4.2.1 *Practices and Policies.* What are the practices and policies that SEAs and LEAs have implemented for accurate initial identification of Native American students who are English learners? In the case of Native American students who may have been misidentified as English learners or non-English learners, describe the practices and policies that SEAs and LEAs have implemented to accurately identify these students? In the case of Native American students with disabilities who may have been misidentified as English learners or non-English learners, describe the practices and policies that SEAs and LEAs have implemented to accurately identify these students.

What guidance have the SEAs and LEAs provided regarding accurate identification of Native American English learners? What evidence exists that these are practices that result in accurate identification of Native American students who are English learners? Where have these practices been adopted? What are the general lessons learned from these adoptions? How might these practices be modified and improved for use in the future? Are there barriers to the adoption of these practices at the SEA, LEA, or school level? Are any of these practices promising? If so, please describe the practices, as well as evidence to support that they are promising.

4.2.2 *Defining Significant Impact of a Language Other Than English on English Language Proficiency.* To be eligible as English learners, Native American students must come ''from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency'' (section 9101(25) of the ESEA). How does the

SEA, LEA, or school define and implement significant impact of a language other than English on English language proficiency? What are the factors that determine the number of generations that are affected by this significant impact? How sensitive are current English language proficiency assessment instruments in measuring the significant impact of an environment in which a language other than English is spoken? What trends or patterns have SEAs, LEAs, schools, or tribes observed regarding the identification of Native American students as English learners and the progress of these students in acquiring English and attaining English proficiency?

4.2.3 *PHLOTE Surveys.* How do SEAs and LEAs frame questions on PHLOTE surveys to ascertain that a language other than English has had a significant impact on a student's level of English language proficiency? What are the practices and policies with regard to PHLOTE surveys that SEAs and LEAs have used to accurately identify Native American students who are English learners? Are any of these practices promising? If so, please describe the practices, as well as evidence to support that they are promising.

4.2.4 *Multi-Step Process for Identifying Native American English Learners.* Several States have indicated that they use a multi-step process to identify Native American English learners, such as interviewing a parent after completion of the PHLOTE survey or using a teacher language-observation checklist to verify a child's language needs. What are the multi-step processes used in the State, LEA, or school, including the components, timeline, and roles and responsibilities of individuals who assist with identification of students?

What evidence or research exists to support that a multi-step process is effective in accurately identifying Native American English learner students? What steps or considerations in a multi-step process are of value in evaluating Native American students who are English learners and who have or may be suspected of having disabilities; e.g., hearing impairment, particularly in the younger age range when eligibility evaluations for special education services are often conducted? What are the benefits and drawbacks of using a multi-step process? What are the roles of parents and community members in assisting with identification of these students as English learners? Are there barriers to the adoption of these practices at the SEA, LEA, or school level?

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.

Program Authority: 20 U.S.C. 6801–6871.

Dated: February 26, 2013.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

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[FR Doc. 2013–04819 Filed 3–1–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

DOE/NSF High Energy Physics Advisory Panel: Correction

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting: Correction.

SUMMARY: On February 14, 2013, the Department of Energy (DOE) published a notice of open meeting for the DOE/NSF High Energy Physics Advisory Panel to be held on March 11–12, 2013. This document makes a correction to that notice.

FOR FURTHER INFORMATION CONTACT: John Kogut, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; SC–25; Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: 301–903–1298.

Corrections

In the **Federal Register** of February 21, 2013, in FR Doc. 2013–04064, on page 12043, please make the following correction:

Under **DATES**, page 12043, third column, first paragraph, first line, the time has changed. The new time is 9:00 a.m.–6:00 p.m.

Issued in Washington, DC, on February 26, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–04876 Filed 3–1–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, March 25, 2013, 1:00 p.m.–5:30 p.m.; Tuesday, March 26, 2013, 8:00 a.m.–4:30 p.m.

ADDRESSES: Westin Savannah Harbor, 1 Resort Drive, Savannah, GA 31421.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, March 25, 2013

1:00 p.m.

Combined Committees Session
Order of Committees:

- Administrative and Outreach Committee
- Nuclear Materials Committee
- Strategic and Legacy Management Committee
- Waste Management Committee
- Facilities Disposition and Site Remediation Committee

Public Comment Session

5:30 p.m.

Adjourn

Tuesday, March 26, 2013

8:00 a.m.

Approval of Minutes, Chair and Agency Updates
Public Comment Session
Waste Management Committee Report
Break
Strategic and Legacy Management Committee Report
Public Comment Session

12:15 p.m.

Lunch Break

1:30 p.m.

Facilities Disposition and Site Remediation Committee Report
Administrative and Outreach Committee Report
Break
Nuclear Materials Committee Report
Public Comment Session

4:30 p.m.

Adjourn

Public Participation: The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gerri Flemming at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Gerri Flemming at the address or phone number listed above. Minutes will also be available at the following Web site: *http://cab.srs.gov/srs-cab.html*.

Issued at Washington, DC, on February 27, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–04875 Filed 3–1–13; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9787–4]

Notice of Meeting of the Environmental Financial Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a public meeting/teleconference.

SUMMARY: The United States Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold a meeting/teleconference of its Transit-Oriented Development for Sustainable Communities Project on March 27, 2013. EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA) to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities. The purpose of this meeting is to hear from informed speakers on investment issues in regards to environmentally sustainable development with a focus on transit-oriented development projects.

DATES: The meeting/teleconference will be held on Wednesday, March 27, 2013, from 2:00 p.m. to 5:00 p.m., Eastern Time.

ADDRESSES: Due to space limitations, the meeting is open and available to the public via teleconference. Members of the public who wish to participate in the meeting should register by contacting Timothy McProuty, U.S. EPA Center for Environmental Finance, at (202) 564–4996 or *mcprouty.timothy@epa.gov.* Registrants will receive a confirmation notice and the information necessary to access the meeting.

FOR FURTHER INFORMATION CONTACT: For information on access or services for individuals with disabilities, or to request accommodations for a person with a disability, please contact Sandra Williams, U.S. EPA Center for Environmental Finance, at (202) 564–4999 or *williams.sandra@epa.gov,* as far in advance of the meeting as possible, to allow as much time as possible to process your request.

Dated: February 25, 2013.

Joseph L. Dillon,

Director, Center for Environmental Finance.

[FR Doc. 2013–04928 Filed 3–1–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9786–9; EPA–HQ–OEI–2012–0481]

Creation of a New System of Records Notice: Telework Application and Agreement Records

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency's (EPA) Office of Administration and Resources Management (OARM), Office of Human Resources (OHR) is

giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). This system of records will contain information used by the Agency to implement and manage its telework program. The records will also be used to prepare and/or conduct telework program evaluations and audits.

DATES: Persons wishing to comment on this system of records notice must do so by April 15, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2012–0481, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: oei.docket@.epa.gov.*
- *Fax:* 202–566–1752.
- *Mail:* OEI Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* OEI Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2012–0481. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information for which 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 OEI Docket, EPA/DC, 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 OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Cindee Smith, Office of Human Resources, (202) 564–0788.

SUPPLEMENTARY INFORMATION:

General Information

The U.S. Environmental Protection Agency proposes to create a new system of records under the Privacy Act to track all records used by supervisors, managers and program and regional Telework Coordinators to assist the EPA in implementing and managing its Telework Program. EPA's Telework Program (or Flexiplace) provides employees the opportunity to work at a location other than their regularly assigned work site or official duty station. Alternate work sites include personal residences and satellite locations. Flexiplace is a work arrangement that is discretionary on the part of management and voluntary on the part of the employee. The work agreement each employee must sign asks for personally identifiable information. The agreement covers the terms, conditions of participation in the Flexiplace Program, and establishes that the employee and his or her supervisor will adhere to the Program's policies.

The Office of Human Resources in the Office of Administration and Resources Management executes the duties of the Agency Telework Coordinator and is responsible for overseeing the EPA Telework Program and ensuring that reporting requirements are fulfilled. The program office and regional Telework Coordinators are responsible for ensuring that all participants are aware of their required responsibilities, maintaining telework applications and providing data and documented approvals and disapprovals to the Office of Human Resources to allow the program to be monitored.

EPA–61

SYSTEM NAME:

Telework Application and Agreement Records.

SYSTEM LOCATION:

All EPA Headquarters Offices, Regions, Laboratories or other EPA facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who voluntarily apply to participate in EPA's Telework Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. Information provided on the Telework Application Form and Work Agreement forms (e.g., employee's name, grade, job title and series, office location, office email address, office telephone number, alternate work location address, alternate work location facsimile, alternate work location and telephone number).

b. Safety Checklist, Annual Re-certification Form and Discontinuation Form.

c. Description of alternate work location equipment and software.

d. Medical documentation (required for medical telework, only).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

The Telework Enhancement Act of 2010 (December 9, 2010); Public Law 11 1–292.

PURPOSE(S):

To manage telework applications and conduct telework program evaluations and audits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSE(S):

Home address, home safety checklists and home safety reports may be disclosed to the Department of Labor when an employee is injured while working at home. Raw data such as the number of employees participating in telework by job title, series and grade may be disclosed to Headquarters and local bargaining unions to provide raw data on the number of bargaining employees covered under the applicable negotiated collective bargaining agreement(s).

General routine uses A, E, F, G, H, I, J, K, and L apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

- *Storage:* Paper files and electronic databases.
- *Retrievability:* Primarily by the applicant's name.
- *Safeguards:* Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records will have appropriate administrative, technical and physical safeguards to ensure their security and confidentiality. All records will be maintained in secure, access-controlled areas of buildings. Medical telework records must be protected in accordance with Agency policies and procedures for accessing and safeguarding sensitive personally identifiable information.
- *Retention and Disposal:* Records stored in this system are subject to EPA schedule 039.
- *System Manager(s) and Address:* The system of records is maintained by agency supervisors whose employees have applied for telework and by program and regional office telework coordinators.

Notice Procedures: Requests to determine whether this system of records contains a record pertaining to you must be sent to the Agency's Freedom of Information Office. The address is U.S. Environmental Protection Agency; 1200 Pennsylvania Ave. NW., Room 6416 West; Washington, DC 20460; (202) 566–1667; Email: (*hq.foia@epa.gov*); Attn: Privacy Act Officer.

RECORDS ACCESS PROCEDURE:

Individuals seeking access to their own personal information in this system of records will be required to provide adequate identification (e.g., driver's license, military identification card, employee badge or identification card and, if necessary, proof of authority). Additional identity verification procedures may be required as warranted. Requests must meet the requirements of EPA regulations at 40 CFR part 16.

CONTESTING PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

The sources of data for records stored in this system are EPA employees, supervisors and all telework coordinators.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

Dated: February 20, 2013.

Malcolm D. Jackson,

Assistant Administrator, and Chief Information Officer.

[FR Doc. 2013–04927 Filed 3–1–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9786–8]

EPA Office of External Affairs and Environmental Education; Request for Nominations of Candidates for the National Environmental Education Advisory Council (Sub-Committee)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Office of External Affairs and Environmental Education Staff Office is soliciting applications, for professionals to serve on the National Environmental Education Advisory Council (NEEAC) sub-committee. There are multiple vacancies on the Advisory Council (sub-committee) that must be filled. Additional avenues and resources may be utilized in the solicitation of applications. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

DATES: Applications should be submitted by March 25, 2013 per instructions below.

ADDRESSES: Submit non-electronic application materials to Javier Araujo, Designated Federal Officer, National Environmental Education Advisory Council, U.S. Environmental Protection Agency, Office of External Affairs and Environmental Education (MC:1704A), 1200 Pennsylvania Ave. NW., Room 1426(ARN), Washington, DC 20460, Ph: 202–564–2642, FAX: 202–564–2753, email: *araujo.javier@epa.gov.*

FOR FURTHER INFORMATION CONTACT: For information regarding this Request for Nominations, please contact Mr. Javier Araujo, Designated Federal Officer (DFO), EPA National Environmental Education Advisory Council, at *araujo.javier@epa.gov* or (202) 564–2642. General information concerning NEEAC can be found on the EPA Web site at: *http://www.epa.gov/enviroed/.*

SUPPLEMENTARY INFORMATION: The National Environmental Education Advisory Council Subcommittee members will serve as representative members. This subcommittee will report to the National Environmental Education Advisory Council. The professional backgrounds of Council members should include education, science, policy, or other appropriate disciplines. Each member of the Council shall hold office for a one (1) to three (3) year period. Members are expected to participate in up to two (2) meetings per year and monthly or more conference calls per year. Subcommittee members of the Council will not receive compensation.

Nominees should demonstrate experience in any of the following areas: Environmental education, public-private partnerships, environmental or educational project financing, nonprofit organizations representing specific demographics, private sector sustainability practices, formal education from K–12, community college and/or technical school education.

Nominations should include a resume and a letter of recommendation from the group or entity the nominee would represent. Nominees should be team players who demonstrate strong analytical, communication and writing skills.

How to Submit Applications: Any interested and qualified individuals may be considered for appointment on the National Environmental Education Advisory Council (subcommittee). Applications should be submitted in electronic format to the Designated Federal Officer, Javier Araujo, *araujo.javier@epa.gov* and contain the following: Contact information including name, address, phone and fax numbers and an email address; a curriculum vitae or resume; the specific area of expertise in environmental education and the sector/slot the applicant is applying for; recent service on other national advisory committees or national professional organizations, and; a one-page commentary on the applicant's philosophy regarding the need for, development, implementation and/or management of environmental education nationally.

Persons having questions about the application procedure or who are unable to submit applications by electronic means, should contact Javier Araujo, DFO, at the contact information provided above in this notice. Non-electronic submissions must contain the same information as the electronic. The NEEAC Staff Office will acknowledge receipt of the application. The NEEAC

Staff Office will develop a short list of candidates for more detailed consideration.

Dated: February 6, 2013.

Javier Araujo,

Designated Federal Officer.

[FR Doc. 2013–04923 Filed 3–1–13; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Public Availability of Equal Employment Opportunity Commission (EEOC) FY 2012 Service Contract Inventory

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Public Availability of FY 2012 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), Equal Employment Opportunity Commission is publishing this notice to advise the public of the availability of the FY 2012 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2012. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/omb/procurement-service-contract-inventories.* The Equal Employment Opportunity Commission has posted its inventory and a summary of the inventory on the EEOC homepage at the following link: *http://www.eeoc.gov/eeoc/doingbusiness/index.cfm.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Doreen Starkes in the Acquisition Services Division at (202) 663–4240 or *DOREEN.STARKES@EEOC.GOV.*

Dated: February 21, 2013.

Patrick R. Mealy,

Director, Acquisition Services Division.

[FR Doc. 2013–04860 Filed 3–1–13; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meetings

Open Commission Meeting

Wednesday, February 28, 2013

FCC Provides Additional Details Regarding the Second National Hearing on Network Resilience and Reliability

The Federal Communications Commission (FCC) provides a more detailed agenda for the field hearing scheduled for February 28, 2013, in Moffett Field, California. This event is the second in a planned series of field hearings to examine challenges to the nation's communications networks during natural disasters and in other times of crisis.[1]

The hearing information is as follows:

Date: February 28, 2013

Location: NASA Ames Research Center, Moffett Field, CA 94035

1:00 p.m. (PST): Welcome and Opening Remarks

1:40 p.m.: Panel #1: *Innovative network technologies and smart power solutions to improve communications network resiliency in times of disaster*

- Hirohito Noda, Chief Representative of the Washington, DC, Office, NTT DOCOMO USA, Inc.
- Nayeem Islam, Vice President and Head of Qualcomm Research Silicon Valley
- Haresh Kamath, Program Manager for Energy Storage, Electric Power Research Institute
- Thomas Nagel, Senior Vice President, Business Development and Strategy, Communications and Data Services, Comcast

2:35 p.m.: Panel #2: *Employing innovative social media, open data and geo-location apps to enhance communications during emergencies*

- Alicia Johnson, Resilience and Recovery Manager, City of San Francisco Department of Emergency Management
- Fred Wolens, Public Policy Team Member, Facebook
- Ari Gesher, Senior Software Engineer and Engineering Ambassador, Palantir Technologies
- George Chamales, Principal, Rogue Genius LLC

3:30 p.m.: End of Hearing

The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *http://www.fcc.gov/live.* Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow as much advance notice as possible; last-minute requests will be accepted, but may be impossible to fill.

We also take this opportunity to remind the public that presentations to decision-making personnel that go to the merits or outcome of the Commission's pending permit-but-disclose proceeding in PS Docket 11–60 regarding network reliability and resiliency, *see Reliability and Continuity of Communications Networks, Including Broadband Technologies,* Notice of Inquiry, 26 FCC Rcd 5614 (2011), must comply with the Commission's *ex parte* rules, *see, e.g.,* 47 CFR 1.1200 *et seq.* Interested parties are also invited to submit written comments in this public docket.

For additional information about the meeting, please contact Gene Fullano, Associate Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418–0492 or *genaro.fullano@fcc.gov.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–04967 Filed 2–28–13; 11:15 am]

BILLING CODE 6712–01–P

[1] This meeting was previously announced in a Public Notice, DA 13–245 (Feb. 20, 2013), but that public notice inadvertently was not published in the **Federal Register**. The Commission has determined that, to the extent the previous public notice was insufficient for purposes of Section 0.605, the prompt and orderly conduct of the Commission's business requires that this notice be issued less than one week prior to the meeting and that earlier notice was not practicable, since the failure to publish the earlier public notice was just discovered. Action by the Commission, February 26, 2013.

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Foreign Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the FDIC may not conduct or sponsor, and the 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 FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information, as required by the PRA. On December 19, 2012 (77 FR 75160), the FDIC solicited public comment for a 60-day period on renewal without change of its ''Foreign Banks'' information collection (OMB No. 3064–0114). No comments were received. Therefore, the FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before April 3, 2013.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.*
- *Mail:* Leneta G. Gregorie (202.898.3719), Counsel, Federal Deposit Insurance Corporation, Room NYA–5050, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact Leneta G. Gregorie, by telephone at (202) 898–3719 or by mail at the address identified above.

SUPPLEMENTARY INFORMATION: The FDIC is proposing to renew, without change, the following information collection.

Title: Foreign Banks.

Estimated Number of Respondents and Burden Hours:

FDIC collection	Hours per response	Number of respondents	Times per year	Burden hours
Application to move a branch	8	1	1	8
Application for consent to operate a noninsured branch	8	1	1	8
Application to conduct activities	8	1	1	8
Recordkeeping	120	10	1	1,200
Pledge of assets:				
Records	0.25	10	4	10
Reports	2	10	4	80
Total Burden				1,314

General Description of Collection: The collection involves information obtained in connection with applications for consent to move an insured state-licensed branch of a foreign bank (12 CFR 303.184); applications to operate as a noninsured state-licensed branch of a foreign bank (12 CFR 303.186); applications from an insured state-licensed branch of a foreign bank to conduct activities which are not permissible for a federally-licensed branch (12 CFR 303.187); internal recordkeeping requirements for such branches (12 CFR 347.209(e)(4)); and reporting and recordkeeping requirements relating to the pledge of assets by such branches (12 CFR 347.209(e)(4) and (e)(6)).

Current Action: The FDIC is proposing to renew the existing information collection without change.

Request for Comment

Comments are invited on: (a) Whether this collections 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 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; 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.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's request to OMB for renewal of the information collection. All comments will become a matter of public record.

Dated at Washington, DC, this 26th day of February, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–04833 Filed 3–1–13; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–13KZ]

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, at 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

Salt Sources Study—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Stroke and coronary heart disease are the leading causes of morbidity and mortality in the United States, and account for billions of dollars in annual health care costs and productivity. Stroke and heart disease are directly related to high blood pressure, a condition that affects about 67 million Americans (31 percent of U.S. adults). Sodium intake directly and progressively increases blood pressure and subsequently increases the risk of heart disease and stroke. Recent evidence also indicates excess sodium can damage the heart, vessels, and kidneys without increasing blood pressure. It has been estimated that an average reduction of as little as 400 mg of sodium daily, or about 11% of average U.S. sodium intake, would prevent more than 28,000 deaths and save 7 billion health care dollars annually.

The Institute of Medicine (IOM, 2010) has recommended phased reductions in the sodium content of packaged foods and menu items, and voluntary actions by industry to reduce the sodium content of food. Public comments on these strategies have been solicited by the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). In addition, the U.S. Department of Health and Human Services (HHS) has designated reduction in sodium intake as one of CDC's Winnable Battles, as a component of the Million Hearts™ initiative, and as a Healthy People 2020 objective.

There is a critical need for current, accurate information about the sources of sodium intake among diverse groups of adults living in the United States. A study conducted in 1991 (N=62) estimated that 77% of sodium consumed was from sodium added to packaged and restaurant foods during commercial processing, about 11% came from salt added at the table or during cooking, and 12% was naturally occurring (inherent) in food and beverages. Results from this study have been used to inform and prioritize efforts to reduce sodium in U.S. packaged and restaurant foods. For example, the data have been used to inform estimation equations for discretionary sodium intake (salt added at the table) and to estimate average total sodium intake. However, the study was not designed to produce estimates for population subgroups.

Since 1991, the U.S. has undergone demographic shifts in age, race, and ethnicity, changes in food consumption patterns, and changes in the geographic distribution of the population. CDC therefore plans to conduct a new Salt Sources Study to obtain updated information about the amount of sodium consumed from various sources (including sodium from processed and restaurant foods, sodium inherent in foods, and salt added at the table and during cooking) and to examine variability across population subgroups. Data collection will include an observational component as well as a sub-study designed to refine the accuracy of estimates of total sodium intake and discretionary sodium intake.

The Salt Sources Study will include participants in three distinct geographic regions: (1) Minneapolis/St. Paul, Minnesota, (2) Birmingham, Alabama, and (3) Palo Alto, California. Over a two-year period, a study center in each location will recruit 150 participants (total N=450) with the aim of selecting an equal number of adults ages 18–74 years by approximately 10-year age groups in each sex-race group, including whites, blacks, Hispanics, and Asians. A sub-study will be conducted among a subgroup of 150 of these participants (50 per site). One study center will serve as a study coordinating center and will transmit de-identified information to CDC through a secure Web site. CDC is authorized to conduct this information collection under section 301 of the Public Health Service Act (42 U.S.C. 241).

For the observational study component, CDC estimates that each study site will enroll 75 participants per year. After completing a screening process, each participant will complete a personal questionnaire, a tap water questionnaire, four 24-hour dietary recalls, and four qualitative food records. In addition, height and weight information on each participant will be collected, and each participant will provide samples of their cooking/table salt for independent analysis. Fifteen participants at each site will also provide water samples that will be analyzed to produce estimates of the amount of sodium in private sources of tap water.

The Salt Sources Study will include a sub-study to help determine the accuracy of estimates of total sodium intake and discretionary salt intake. We will ask participants to use a Study Salt for 11 days instead of their own household salt. The Study Salt contains a very small amount of lithium, a metal found in trace amounts in all plants and animals. Seventy-five respondents who are participating in the observational study (approximately 25 respondents from each study site) will provide additional information based on four 24-hour urine collections, four follow-up urine collection questionnaires, and three follow-up questionnaires on Study Salt use.

Results from the Salt Sources Study will be used to inform public health strategies to reduce sodium intake, determine if substantial variability in sources of sodium intake exists by socio-demographic subgroups, and better inform estimates of salt added at the table used in Healthy People 2020 objectives related to sodium reduction.

Participation in the Salt Sources Study is voluntary. There are no costs to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Adults aged 18–74 years	Telephone Recruitment and Screening.	225	1	10/60	38
	Participant Questionnaire	225	1	10/60	38

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
	Discretionary Salt Use Questions from NHANES 2009.	225	1	5/60	19
	Height and Weight	225	1	10/60	38
	Study Orientation and Scheduling	225	1	20/60	75
	Tap Water Questionnaire	225	1	5/60	19
	24-Hour Dietary Recall	225	4	30/60	450
	Food Record	225	4	15/60	225
	Duplicate Salt Sample Collection	225	4	10/60	150
	Water Collection Form and Instructions.	15	1	5/60	1
	24-hour Urine Collection	75	4	50/60	250
	Follow-up Urine Collection Questionnaire.	75	4	10/60	50
	Study Salt Supplement Questionnaire.	75	3	5/60	19
Total					1,372

Dated: February 26, 2013.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–04896 Filed 3–1–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–0850]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Laboratory Response Network (LRN)—0920–0850–Extension (expiration 5/31/13)—National Center for Emerging and Zoonotic Infections (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Laboratory Response Network (LRN) was established by the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC) in accordance with Presidential Decision Directive 39, which outlined national anti-terrorism policies and assigned specific missions to Federal departments and agencies. The LRN's mission is to maintain an integrated national and international network of laboratories that can respond to suspected acts of biological, chemical, or radiological threats and other public health emergencies.

When Federal, State and local public health laboratories voluntarily join the LRN, they assume specific responsibilities and are required to provide information to the LRN Program Office at CDC. Each laboratory must submit and maintain complete information regarding the testing capabilities of the laboratory. Biennually, laboratories are required to review, verify and update their testing capability information. Complete testing capability information is required in order for the LRN Program Office to determine the ability of the Network to respond to a biological or chemical threat event. The sensitivity of all information associated with the LRN requires the LRN Program Office to obtain personal information about all individuals accessing the LRN Web site. In addition, the LRN Program Office must be able to contact all laboratory personnel during an event so each laboratory staff member that obtains access to the restricted LRN Web site must provide his or her contact information to the LRN Program Office.

As a requirement of membership, LRN Laboratories must report all biological and chemical testing results to the LRN Program at CDC using a CDC developed software tool called the LRN Results Messenger. This information is essential for surveillance of anomalies, to support response to an event that may involve multiple agencies and to manage limited resources. LRN Laboratories must also participate in and report results for Proficiency Testing Challenges or Validation Studies. LRN Laboratories participate in multiple Proficiency Testing Challenges, Exercises and/or Validation Studies every year consisting of five to 500 simulated samples provided by the LRN Program Office. It is necessary to conduct such challenges in order to verify the testing capability of the LRN Laboratories. The rarity of biological or chemical agents perceived to be of bioterrorism concern prevents some LRN Laboratories from maintaining proficiency as a result of day-to-day testing. Simulated samples are therefore distributed to ensure proficiency across the LRN. The results obtained from testing these simulated samples must also be entered into Results Messenger for evaluation by the LRN Program Office. During a surge event resulting from a bioterrorism or chemical terrorism attack, LRN Laboratories are also required to submit all testing results using LRN Results Messenger. The LRN Program Office requires these results in order to track the progression of a bioterrorism event and respond in the most efficient and effective way possible and for data sharing with other Federal partners

involved in the response. The number of samples tested during a response to a possible event could range from 10,000 to more than 500,000 samples depending on the length and breadth of the event. Since there is potentially a large range in the number of samples for a surge event, CDC estimates the annualized burden for this event will be 2,250,000 hours or 625 responses per respondent.

There is no cost to the respondents other than their time. The total estimated annualized burden is 2,382,300 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs)
Public Health Laboratories	Biennial Requalification	150	1	2
Public Health Laboratories	General Surveillance Testing Results	150	25	24
Public Health Laboratories	Proficiency Testing/Validation Testing Results.	150	5	56
Public Health Laboratories	Surge Event Testing Results	150	625	24

Dated: February 26, 2013.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–04900 Filed 3–1–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: TANF Quarterly Financial Report, ACF–196.

OMB No.: 0970–0247.

Description: This information collection is authorized under Section 411(a)(3) of the Social Security Act. This request is for revision of approval to use the Administration for Children and Families' (ACF) 196 form for periodic financial reporting under the Temporary Assistance for Needy Families (TANF) program. States participating in the TANF program are required by statute to report financial data on a quarterly basis. This form meets the legal standard and provides essential data on the use of Federal funds. Failure to collect the data would seriously compromise ACF's ability to monitor program expenditures, estimate funding needs, and to prepare budget submissions required by Congress. Financial reporting under the TANF program is governed by 45 CFR part 265. This renewal restores columns for reporting Emergency Contingency Fund and Supplemental Grant expenditures.

Respondents: TANF Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196	51	4	10	2040

Estimated Total Annual Burden Hours: 2040.

Additional Information

ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by March 15, 2013. A copy of this information collection, with applicable supporting documentation, may be obtained by emailing the Administration for Children and Families, Reports Clearance Officer: *rsargis@acf.hhs.gov*.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project; 725 17th Street NW., Washington, DC 20503; FAX: (202) 395–7285; email: *oira_submission@omb.eop.gov*.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–04826 Filed 3–1–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–P–1071]

Determination That GEREF (Sermorelin Acetate) Injection, 0.5 Milligrams Base/Vial and 1.0 Milligrams Base/Vial, and GEREF (Sermorelin Acetate) Injection, 0.05 Milligrams Base/Amp, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that GEREF (Sermorelin Acetate)

injection, 0.5 milligrams (mg) base/vial and 1.0 mg base/vial, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Kathy Schreier, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 51, Rm. 6252, Silver Spring, MD 20993–0002, 301–796–3432.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, is the subject of NDA 20–443, held by EMD Serono, and initially approved on September 26, 1997; and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, is the subject of NDA 19–863, held by EMD Serono, and initially approved on December 28, 1990. GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, is indicated for the treatment of idiopathic growth hormone deficiency (GHD) in children with growth failure, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, is indicated for evaluating the ability of the somatotroph of the pituitary gland to secrete growth hormone.

In a letter dated December 2, 2008, EMD Serono notified FDA that GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, was being discontinued and requested withdrawal of NDA 20–443; and FDA moved that drug product to the ''Discontinued Drug Product List'' section of the Orange Book. In a letter dated July 11, 2008, EMD Serono also notified FDA that GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book as well. In addition, in a letter dated December 12, 2008, EMD Serono requested withdrawal of NDA 19–863 for GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp. In the **Federal Register** of May 19, 2009 (74 FR 23407), FDA announced that it was withdrawing approval of NDA 19–863 and NDA 20–443, effective June 18, 2009.

Alvin J. Lorman submitted a citizen petition dated October 12, 2012 (Docket No. FDA–2012–P–1071), under 21 CFR 10.30, requesting that the Agency determine whether GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, was withdrawn from the market for reasons of safety and efficacy. Although the citizen petition did not request that we determine whether GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, approved under NDA 19–863, was withdrawn for safety or efficacy, that product has also been discontinued. On our own initiative, we have also determined whether GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, was withdrawn for safety or effectiveness reasons.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events for both GEREF products. We have reviewed the available evidence and determined that both GEREF products were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to GEREF (Sermorelin Acetate) injection, 0.5 mg base/vial and 1.0 mg base/vial, and GEREF (Sermorelin Acetate) injection, 0.05 mg base/amp, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 26, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–04827 Filed 3–1–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0205 (Formerly 2007D–0252)]

Pulse Oximeters—Premarket Notification Submissions [510(k)s]; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Pulse Oximeters—Premarket Notification Submissions [510(k)s].'' This guidance document pertains to non-invasive pulse oximeters intended for prescription use to measure arterial blood oxygen saturation (SpO_2) and pulse rate. This document supersedes the General Guidance Document entitled ''Device: Non-Invasive Pulse Oximeter'' issued on September 7, 1992, and represents the Agency's current thinking in regards to information that should be included in a premarket submission for a non-invasive pulse oximeter.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Pulse Oximeters—Premarket Notification Submissions [510(k)s]'' to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Neel Patel, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2532, Silver Spring, MD 20993–0002, 301–796–6274.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed this guidance document to assist industry in preparing a Premarket Notification (510(k)) for a pulse oximeter. The device is intended for non-invasive measurement of SpO_2 and pulse rate. In the **Federal Register** of July 19, 2007 (72 FR 39631), FDA announced the availability of the draft guidance document. Interested persons were invited to comment by October 17, 2007. Two sets of comments were received with recommendations related to organization, terminology, references to standards, labeling, test recommendations, and data analysis. In response, FDA revised the guidance document to address the comments and clarify our recommendations as appropriate. This document supersedes the guidance document ''Non-Invasive Pulse Oximeter General Guidance Document,'' dated September 7, 1992.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on non-invasive pulse oximeters intended for prescription use to measure SpO_2 and pulse rate. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*. To receive ''Pulse Oximeters—Premarket Notification Submissions [510(k)s],'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1605 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR 56.115 have been approved under OMB control number 0910–0130.

V. Comments

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov*. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: February 26, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–04870 Filed 3–1–13; 8:45 am]

BILLING CODE 4160–01–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; Small Business Non-HIV Diagnostics, Food Safety, Sterilization/Disinfection and Bioremediation.

Date: March 7–8, 2013.
Time: 8:00 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, Cabinet/Judiciary, One Bethesda Metro Center, Bethesda, MD 20814.
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 urgent need to meet timing limitations imposed by the intramural research review 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 26, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04852 Filed 3–1–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed 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 Nursing Research Special Emphasis Panel; Loan Repayment.
Date: March 27, 2013.
Time: 11:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Mary A Kelly, DEA/OR, NINR/NIH, 6701 Democracy Blvd., Suite 700, Bethesda, MD 20892, 301–496–0235, *mary.kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: February 26, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04845 Filed 3–1–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of 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 Allergy and Infectious Diseases Special Emphasis Panel.
Date: March 26, 2013.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817.
Contact Person: Vasundhara Varthakavi, Ph.D., DVM, Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700–B Rockledge Drive, Bethesda, MD 20892–7616, 301–496–2550, *varthakaviv@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 26, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04849 Filed 3–1–13; 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 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Studies to the Intestinal Stem Cells Consortium.
Date: April 4, 2013.
Time: 1:00 p.m. to 2:30 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: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.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 26, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04846 Filed 3–1–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; CHHD–C Developmental Biology Subcommittee.

Date: March 14–15, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 26, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04847 Filed 3–1–13; 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: AIDS and AIDS Related Applications.

Date: March 20, 2013.

Time: 10:00 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.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biopsychosocial Issues in Patient Management.

Date: March 22, 2013.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Monica Basco, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3220, MSC 7808, Bethesda, MD 20892, 301–496–7010, *bascoma@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: March 26–27, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington, DC, 923 16th Street NW., Washington, DC 20006.

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; Member Conflict: Respiratory Diseases.

Date: March 26–27, 2013.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: George M Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Neuroscience.

Date: March 26, 2013.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@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 26, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04853 Filed 3–1–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 07, 2013, 01:30 p.m. to February 07, 2013, 02:30 p.m., Crown Plaza Riverwalk, 111 Peach Street, San Antonio, TX, 78205 which was published in the **Federal Register** on January 17, 2013, 78 FR 3904.

The meeting will be held March 5, 2013, from 11:00 a.m. to 12:00 p.m. The meeting location has changed to National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. The meeting is closed to the public.

Dated: February 26, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04851 Filed 3–1–13; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Test to Predict Effectiveness of Docetaxel Treatment for Prostate Cancer.

Date: March 28, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Room-507, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Michael B. Small, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Cancer Institute, NHH, 6116 Executive Blvd., Room 8127, Bethesda, MD 20892–8328, 301–402–0996, *smallm@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 26, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–04850 Filed 3–1–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the Laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently certified Laboratories and Instrumented Initial Testing Facilities (IITF) is published in the **Federal Register** during the first week of each month. If any Laboratory/IITF's certification is suspended or revoked, the Laboratory/IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any Laboratory/IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'', as amended in the revisions listed above, requires strict standards that Laboratories and Instrumented Initial Testing Facilities (IITF) must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies.

To become certified, an applicant Laboratory/IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a Laboratory/IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and Instrumented Initial Testing Facilities (IITF) in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A Laboratory/IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following Laboratories and Instrumented Initial Testing Facilities (IITF) meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Instrumented Initial Testing Facilities (IITF)

None.

Laboratories

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615–255–2400 (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center—Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630

Laboratory Corporation of America Holdings, 7207 N. Gessner Road,

Houston, TX 77040, 713–856–8288/800–800–2387
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.,)
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7
Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555
Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370 (Formerly: SmithKline Beecham Clinical Laboratories)
Redwood Toxicology Laboratory, 3650 Westwind Blvd., Santa Rosa, CA 95403, 707–570–4434
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276
Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273
U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Janine Denis Cook,

Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2013–04874 Filed 3–1–13; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0014]

Homeland Security Science and Technology Advisory Committee (HSSTAC)

AGENCY: Science and Technology Directorate, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Science and Technology Advisory Committee (HSSTAC) will meet on March 21, 2013 in Washington, DC The meeting will be open to the public.

DATES: The HSSTAC will meet Thursday, March 21, 2013 11:30 a.m.—4:15 p.m. The meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at the Department of Homeland Security (DHS), Science and Technology Directorate, 1120 Vermont Avenue NW., (Room 5–212), Washington, DC.

All visitors must pre-register in order to gain entry to the building. To register, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, below. Alternatively, you may register via this Web site: *http://www.dhs.gov/st-hsstac*. Select the link labeled ''Click Here to Register.'' Please provide your name, citizenship, organization (if any), title (if any), email address (if any), and telephone number.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION CONTACT**, below.

The materials that are provided to committee members will also be provided to the public. Materials that are sent to committee members in advance will be posted on the public Web site below on or before March 21. Materials that are provided to committee members at the meeting will be made available to public attendees, and also posted to the public Web site below as soon as possible after the meeting. Check this Web site after

March 6, 2013: *http://www.dhs.gov/st-hsstac*. To facilitate public participation, we invite public comment on the issues to be considered by the committee as listed in the ''Supplementary Information'' below. Comments may be submitted orally, in writing, or both. If submitting in writing, please include the docket number (DHS–2013–0014) and submit via *one* of the following methods before March 19, 2013:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: mary.hanson@hq.dhs.gov*. Include the docket number in the subject line of the message.
- *Fax:* 202–254–6176.
- *Mail:* Mary Hanson, HSSTAC Executive Director, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, Bldg. 410, Washington, DC 20528

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the HSSTAC, go to *http://www.regulations.gov*.

A period is allotted for oral public comment on March 21, 2013, after each topic area and before any recommendations are formulated. Speakers are asked to pre-register and limit their comments to three minutes or less. Please note that the public comment period may end before the time indicated, following the last call for comments. To register as a speaker, contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Mary Hanson, HSSTAC Executive Director, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, Bldg. 410, Washington, DC 20528, 202–254–5866(O), 202–254–5823 (F), *mary.hanson@hq.dhs.gov*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463). The HSSTAC was established and operates in accordance with the provisions of the FACA. The committee addresses areas of interest and importance to the Under Secretary for Science and Technology, such as new developments in systems engineering, cyber-security, knowledge management and how best to leverage related technologies funded by other federal agencies and by the private sector. It also advises the Under Secretary on policies, management processes, and organizational constructs as needed.

Agenda: Members will meet with the Under Secretary and Deputy Under Secretary for the DHS Science and Technology Directorate (DHS S&T) to discuss proposed areas for study and receive taskings from the Department. The committee will then receive oral and written reports from its subcommittees on the following issues:

—DHS S&T collaboration with industry, and the Department's request for HSSTAC input on how to improve that collaboration.

—Cyber Security and the evolution of the Cyber Security Division of DHS S&T.

The committee will review the information presented on each issue, deliberate on any preliminary recommendations presented by the subcommittees, and formulate initial recommendations for the Department's consideration. The last item on the agenda is a briefing and discussion regarding the recent creation of a Resilient Systems Division at DHS S&T. The committee will hear why this division was created and its strategic direction, and will formulate preliminary recommendations for consideration by the Department.

At the end of the meeting and following input from the committee, Department officials will prioritize the issues discussed and provide direction to the committee, including the possible establishment of new taskings to address the highest priorities.

Dated: February 26, 2013.

Mary Hanson,

Executive Director, Homeland Security Science and Technology Advisory Committee.

[FR Doc. 2013–04921 Filed 3–1–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0019]

Committee Name: Homeland Security Academic Advisory Council

AGENCY: Department of Homeland Security.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Academic Advisory Council (HSAAC) will meet on March 20, 2013 in Washington, DC. The meeting will be open to the public.

DATES: The HSAAC will meet Wednesday, March 20, 2013, from 10:00 a.m. to 4:00 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at Ronald Reagan International Trade Center, 1300 Pennsylvania Avenue NW., Floor B, Room B1.5–10, Washington, DC 20004. All visitors to the Ronald Reagan International Trade Center must bring a Government-issued photo ID. Please use the main entrance on 14th Street NW.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, send an email to *AcademicEngagement@hq.dhs.gov* or contact Lindsay Burton at 202–447–4686 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee prior to the adoption of recommendations as listed in the **SUPPLEMENTARY INFORMATION** section below. Comments must be submitted in writing no later than Tuesday, March 12, 2013; must include DHS–2013–0019 as the identification number; and may be submitted using one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AcademicEngagement@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–447–3713.
- *Mail:* Academic Engagement; MGMT/Office of Academic Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW.; Washington, DC 20528–0440.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket, to read background documents or comments received by the Homeland Security Academic Advisory Council, go to *http://www.regulations.gov.*

One thirty-minute public comment period will be held during the meeting on March 20, 2013, occurring between approximately 2:00 p.m. and 4:00 p.m. Speakers will be requested to limit their comments to three minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the Office of Academic Engagement as indicated below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Lindsay Burton, Office of Academic

Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW.; Washington, DC 20528–0440, email: *AcademicEngagement@hq.dhs.gov,* tel: 202–447–4686 and fax: 202–447–3713.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). The HSAAC provides advice and recommendations to the Secretary and senior leadership on matters relating to student and recent graduate recruitment; international students; academic research; campus and community resiliency, security and preparedness; and faculty exchanges.

Agenda: The five HSAAC subcommittees (Student and Recent Graduate Recruitment, Homeland Security Academic Programs, Academic Research and Faculty Exchange, International Students, and Campus Resilience) will give progress reports and may present draft recommendations for action in response to initial taskings issued by Secretary Napolitano at the March 20, 2012 full committee meeting, including: How to attract student interns, student veterans, and recent graduates to jobs at DHS; how to use social media and other means of communication to most effectively reach this audience; how to ensure that students and recent graduates of Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, and other Minority Serving Institutions know of and take advantage of DHS internship and job opportunities; how to define the core elements of a homeland security degree at the Associates, Bachelors and Masters levels; how to apply the Transportation Security Administration (TSA) Associates Program model to other segments of the DHS workforce who wish to pursue a community college pathway; how to form relationships with 4-year schools so that DHS employees' credits transfer towards a higher level degree; how to enhance existing relationships between the Federal Emergency Management Agency's (FEMA) Emergency Management Institute and the higher education community to support Presidential Policy Directive 8 (PPD–8), expand national capability, and support a whole community approach; how to expand DHS cooperation with the Department of Defense academies and schools to provide current DHS employees with educational opportunities; how academic research can address DHS' biggest challenges; how DHS operational Components can form lasting relationships with universities to incorporate scientific findings and Research and Development into DHS operations and thought processes; how universities can effectively communicate to DHS emerging scientific findings and technologies that will make DHS operations more effective and efficient; how to create a robust staff/faculty exchange program between academe and DHS; how DHS can improve its international student processes and outreach efforts; how DHS can better communicate its regulatory, policies and procedures to the academic community; how DHS can accommodate and support emerging trends in international education; how colleges and universities use specific capabilities, tools, and processes to enhance campus and community resilience as well as the cyber and physical infrastructure; how DHS grant programs may be adjusted to support resiliency-related planning and improvements; how campuses can better integrate with community planning and response entities; how to implement the whole community approach and preparedness culture within student and neighboring communities; how to strengthen ties between the DHS Federal Law Enforcement Training Center and campus law enforcement professionals; and how DHS can better coordinate with individual campus IT departments on the risks towards and attacks on computer systems and networks. The meeting materials will be posted to the HSAAC Web site at: *http://www.dhs.gov/homeland-security-academic-advisory-council-hsaac* no later than March 15, 2013.

Responsible DHS Official: Lauren Kielsmeier, *AcademicEngagement@hq.dhs.gov,* 202–447–4686.

Dated: February 26, 2013.

Lauren Kielsmeier,

Executive Director for Academic Engagement.

[FR Doc. 2013–04861 Filed 3–1–13; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0018]

Request for Information (RFI) Regarding the Planned Biotechnology Development Module (BDM) as Part of the National Bio and Agro-Defense Facility (NBAF) and Notice of Public Workshop

AGENCY: Department of Homeland Security, Science and Technology Directorate.

ACTION: Request for Information and Notice of Workshop.

SUMMARY: The Department of Homeland Security (DHS) Science and Technology Directorate (S&T), Office of National Laboratories (ONL) and the United States Department of Agriculture (USDA), Agricultural Research Service (ARS) and Animal and Plant Health Inspection Service (APHIS) are requesting information regarding utilization alternatives for the planned Biotechnology Development Module (BDM) a planned component of the National Bio and Agro-Defense Facility (NBAF). The BDM will provide a distinct environment for scientific synergy, attract animal health industry involvement and serve to encourage public-private partnerships as countermeasures developed for agricultural biodefense emerge from NBAF. The information provided by industry and other interested stakeholders in response to this RFI will be used by DHS and USDA to better plan the scope, capacity, and utilization alternatives for the BDM facility. DHS and USDA are requesting that this information be provided in writing per the guidelines below. There will also be an opportunity for interested parties to participate in a workshop with DHS and USDA.

DATES: The Request for Information period will be 60 days (March 5 to May 3, 2013). Please submit written information no later than May 3, 2013.

The workshop will be held on March 22, 2013 from 8:30 a.m.–4:00 p.m. CST.

ADDRESSES: Written Information should be submitted via email to: *nbafprogrammanager@dhs.gov* ATTN: Mary Goobic.

The workshop will be held at the Kansas State University Olathe Campus (Forum Hall), 22201 W. Innovation Drive, Olathe, KS 66061.

If you are interested in participating in the public workshop, please register at *www.dhs.gov/nbaf* by March 18, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Goobic, 202–254–6144.

SUPPLEMENTARY INFORMATION:

Request for Information Instructions

Written information should be submitted via email to: *nbafprogrammanager@dhs.gov,* subject line should read: 'BDM RFI Response, ATTN: Mary Goobic' no later than May 2, 2013. Submissions should be limited to 5 pages and should address the following four main topics:

- Scope of the BDM (requirements, program drivers, technology).
- Operational Requirements (staffing, regulatory, equipment needs).
- Utilization Alternatives (collaboration space, user facility, work for others, etc).
- Mechanisms to Facilitate Collaboration Between Industry and Government (joint venture).

The written information should provide feedback on the above information and address the following questions (please see below for additional details on the plans for the BDM):

1. Are there additional or different perceived needs for the BDM?
2. How much interest is there for utilizing the BDM?
3. Is the BDM right sized for capacity?
4. What are the proposed utilization alternatives for the BDM?
5. What are the possible mechanisms to enhance collaboration between the BDM and the animal health biologics industry?
6. Provide lessons learned for DHS to consider regarding the BDM.

Workshop

To further facilitate the information exchange between the government and the biologics industry, DHS will conduct a public workshop as part of the RFI process. The goals of the workshop are: (1) Provide an overview of the planned mission requirements of the BDM; (2) Provide the proposed BDM design; (3) Review analogous current and planned biological countermeasure development initiatives; (4) Gauge industry interest in the utilization of the BDM to enhance collaboration. This workshop is designed to provide information on the NBAF BDM and how it fits within the broader context of countermeasure development for protecting U.S. agriculture. A panel discussion is scheduled to give industry an opportunity to share lessons learned and insights on BDM related operations.

The workshop will be held from 8:30 a.m.–4:00 p.m. CST on March 22, 2013 in Olathe, KS at the Kansas State University Olathe campus. If you are interested in attending, please register at the following link: *www.dhs.gov/nbaf* by March 18, 2013. This workshop will include several panel discussions and we encourage participation from industry representatives to present their perspectives and lessons learned on this opportunity for collaboration with the federal government. If you are interested in participating in the panel discussions, please indicate a representative from your organization to serve as a panel member when you register online. Early registration is recommended due to limited seating. There is no registration fee for the workshop. If you need special accommodations due to a disability, please contact Mary Goobic at 202–254–6144 at least 7 days in advance of the workshop.

Additional information such as design layouts, schematics, any other significant questions and any amendments or changes to the RFI will be posted on the NBAF Web site (*www.dhs.gov/nbaf*). Questions regarding the workshop may be submitted by email to *nbafprogrammanager@dhs.gov* ATTN: Mary Goobic.

Scope of the BDM

The BDM is designed to support the early development and eventual license of products/reagents discovered at the NBAF laboratory. The goal of the BDM is to provide product quality assurance, master cell and seed stocks, upscale validation, and assay development to support the development of biologics, which will allow quicker regulatory reviews and approvals of materials and products to respond to potential emergencies and threats to national and global food stocks. The BDM would address critical needs, including pilot manufacturing processes to effectively transfer new technologies to the veterinary biologics and biopharmaceutical industries and, in some emergency situations, to the end users in the field to control and eradicate a foreign animal disease outbreak.

One of the limitations of moving animal health research results to agribusiness is the cost and inefficiencies in developing the manufacturing process; this is an even a bigger issue for foreign animal diseases since there is a limited market for countermeasures developed to control diseases that do not exist in the United States. The BDM will enable the federal government (USDA–ARS, USDA–APHIS, and DHS) to implement early product development initiatives in partnership with private sector greatly increase the rate of success of technology transfers. The BDM will be constructed to enable Good Manufacturing Practices (GMP) and support translational studies by producing test materials to develop potential therapeutic and preventive countermeasures for animal agriculture. The BDM will support customers from all three NBAF user groups (DHS S&T, ARS, and APHIS) as well as potential industry collaborators. The proposed BDM is intended to produce small scale GMP-compliant biological countermeasures for supporting efficacy studies and early phase clinical trials in response to DHS and USDA program requests. The BDM has been designed to manufacture experimental diagnostics, biologics, and therapeutics designed for the detection, control, and eradication of foreign animal diseases in the United States. These countermeasures may also be used to help developing countries control and where feasible eradicate endemic agents that pose a threat to United States animal agriculture. The model for the GMP/BDM facility, and its supporting areas, is to create small quantities of materials beyond proof of concept, using clinical processing to provide consistent/reproducible products and processes to confirm product safety and effectiveness. The design of the GMP/BDM Suite will support clinical investigations focusing on product safety, purity, potency, and efficacy that will lead to licensed products in compliance with U.S. regulations as well as international standards. The BDM's design will provide flexibility for a variety of product types and manufacturing processes, including production of monoclonal antibodies, recombinant proteins for therapeutics/diagnostic applications, and live or inactivated recombinant viral and bacterial vaccines, and dedicated areas for formulations and aseptic fill-finish operations. The development of qualified master cell and seed stocks (for manufacturing viral and bacterial vaccines) will be a critical activity to accomplish the mission. In addition, the facility will support the evolution of existing countermeasures (vaccine and diagnostic) programs by providing small scale production of experimental test materials for use in the clinical and analytical components of late stage discovery and early stage development of countermeasures discovered by NBAF scientists.

Operational Requirements

The BDM is designed as part of the NBAF laboratory to support the growth, collection, and purification of products in individual Production and Diagnostic Reagent Production Suites. The BDM is

8,300 square feet and consists of production suites and general support spaces for small scale production of biological countermeasure materials for supporting efficacy studies and early phase clinical trials. By implementing validated processes to reproduce materials consistently, the program will hasten candidate technology transfer and countermeasure product candidate transition from NBAF to industry partners for scale-up and commercial manufacturing. This will also allow for more targeted outsourcing of countermeasures development processes, as candidates emerging from the NBAF will be more attractive to the animal biologics industry.

The BDM will meet the APHIS Center for Veterinary Biologics requirements for manufacturing biological products and will have the flexibility, when necessary, to operate in accordance with current GMP regulations as described in Title 21 CFR Parts 210, and 211, such as during the production of master seeds, drug substances (DS), and drug products (DP). The NBAF BDM will allow the production of pilot lots of veterinary biological candidates to be tested to assess their potential for successful licensure by the APHIS Center of Veterinary Biologics, and will be produced under APHIS manufacturing requirements. APHIS has issued a comprehensive set of regulations governing the licensing of viruses, serums, toxins, or analogous products (9 CFR Parts 101–123). These regulations broadly categorize viruses, serums, toxins or analogous products as ''biological products'' at any stage of production intended for use in the treatment of animals and act primarily through the direct stimulation, supplementation, enhancement, or modulation of the immune system or immune response. Additional veterinary drugs or products will be submitted to and licensed by the FDA Center for Veterinary Medicine. Candidates will be manufactured in compliance with the appropriate CFR requirements for the conduct of controlled and uncontrolled studies utilizing active components in animal models.

The BDM will operate to enable positive and negative air flows, as well as BSL–2 containment with BSL–3 enhanced production areas to support the development of inactivated and attenuated recombinant viral products. The BDM will be utilized 24 hours a day, based on a year-round production schedule once fully operational. The facility will also allow simultaneous production of small amounts of multiple vaccine candidates. The BDM is attached to the NBAF laboratory to assure proximity. Card/Access Security Control will be established to maintain access control to the building as well as each of the manufacturing suites and access corridors of the GMP/BDM. Proximity Card access will be established to assure that only properly trained and security authorized personnel are allowed in each of the zoned areas of the module. Card access will also be used to maintain the clean zones and material and equipment transfer into the manufacturing suites.

Air cleanliness classifications are established in the GMP/BDM per ISO and International EU requirements for possible DS and DP exposure. Open product manufacturing, processing, and fill-finish will be performed under laminar flow classified room air or within containment via biosafety cabinets (BSC) or laminar flow (LAF) hoods to assure product integrity. Air cleanliness will be maintained within the product exposure areas under Class 100/A, ISO 5 conditions. Cleanliness of this air will be maintained through cascade of classifications in adjacent areas required to maintain flow of material, equipment, and personnel through the space. These classifications will be maintained for cleanliness requirements and containment requirements of the CDC, and the FDA for materials in use and products manufactured or finished. Pressurization of spaces to supplement air flows will also be utilized to assure containment of particulates, contaminants, and regulated agents.

Utilization Alternatives

DHS plans to operate the BDM as a government owned, government operated (GOGO) laboratory. However, DHS is evaluating utilization alternatives for the BDM that will maximize the use of the facility. DHS is seeking feedback from industry on utilization alternatives or alternative approaches such as privatizing the construction and operations of the BDM.

The key criteria that DHS is considering in its evaluation are:

- Facility and Scientific Oversight.
- Ability to Respond to Changing Mission.
- Facility Availability.
- Ability to Establish Collaborations.
- Safety and Security.
- Technology Transfer.
- Cost Effectiveness.
- Outside Funding.
- Risk of Failure/Bankruptcy.
- Liability.

DHS would like feedback on other criteria that should be considered in the decision making process.

Mechanisms To Facilitate Collaboration With Industry

The BDM presents opportunities to further collaborate with industry partners in the development of countermeasures to protect animal agriculture in the United States, as well as developing countries that are endemic for priority diseases that pose a threat to global food security. The BDM will enable and facilitate technology transfer to national and multinational industry partners and contract manufacturing organizations (CMO) for scale-up and quicker turnover to commercial product manufacturing. The importance of on-site potential for development and scale-up production of material has been recognized by DHS and USDA as an important capability for the site as an integral step towards the development of countermeasures. Additional feedback or suggestions on other potential opportunities for collaboration are welcome.

NBAF Mission

The United States' food and animal agriculture supply is a highly integrated, open, global, and complex infrastructure. Increased imports of agricultural products, climate change, and growing numbers of international travelers to and from the U.S. have opened our food supply to possible intentional, natural, or accidental foreign animal disease outbreaks. The recent pandemic H1N1 outbreak and other regional foot-and-mouth disease outbreaks have demonstrated the vulnerabilities present when there is a lack of available countermeasures, and other rapid response capabilities to curb outbreak disease. The food and agriculture industries are a significant contributor to U.S. economic prosperity; therefore, the loss of a significant food market would have dire economic and potentially human health consequences. To supply the needed capabilities, the DHS and the USDA have the joint responsibility to protect our Nation's animal agriculture and public health from these threats. The DHS is leading these efforts through the construction of the NBAF in Manhattan, Kansas.

NBAF will be a state-of-the-art biocontainment facility for the study of foreign animal, emerging and zoonotic (transmitted from animals to humans) diseases that threaten the U.S. animal agriculture and public health. NBAF will provide and strengthen our nation with critical capabilities to conduct research, develop vaccines and other countermeasures, and train veterinarians in preparedness and response against these diseases. For the

past 50 years, the Plum Island Animal Disease Center (PIADC) has served our nation as the primary facility to conduct research on livestock diseases. However, PIADC is nearing the end of its life-cycle and needs to be replaced in order to meet U.S. research requirements and ensure the timely development of countermeasures in the event of an outbreak. NBAF meets that need and will serve as a replacement for the PIADC facility. Strategically, NBAF will boast of new and expanded capabilities, specifically, Biosafety Level (BSL) 4 containment for the study of high-consequence diseases affecting livestock and people. Specifically, NBAF will meet its mission by (1) providing enhanced capabilities to research, rapidly detect, and provide training on foreign animal, emerging and zoonotic diseases in livestock; (2) providing expanded vaccine and countermeasure development capabilities; and (3) replacing and expanding research currently performed at the PIADC in Orient Point, New York while continuing the partnership between the DHS and the USDA–ARS and USDA–APHIS.

NBAF will serve as a U.S. government facility capable of rapidly producing experimental biological, diagnostic, and vaccine related products for potential use by USDA in an outbreak of an emerging or foreign animal disease. Initially, the following diseases would be studied at NBAF and would also require BSL–3 and BSL–4 laboratory capabilities: Nipah Virus, Hendra Virus, African Swine Fever, Rift Valley Fever, Japanese Encephalitis Virus, Foot and Mouth Disease, Classical Swine Fever, and Contagious Bovine Pleuropneumonia. The pathogens studied at the NBAF may change based upon continued evaluation of risks to U.S. agricultural system.

Dated: February 26, 2013.

Daniel M. Gerstein,

Deputy Under Secretary, Science and Technology Directorate, U.S. Department of Homeland Security.

[FR Doc. 2013–04919 Filed 3–1–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5690–N–04]

Notice of Proposed Information Collection for Public Comment Enterprise Income Verification (EIV) Systems—Debts Owed to Public Housing Agencies and Terminations

AGENCY: Office of the Assistance Secretary for Public and Indian Housing, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information collection is required to identify families who no longer participate in a HUD rental assistance program due to adverse termination of tenancy and/or assistance, and owe a debt to a Public Housing Agency (PHA). The information is used by PHAs to determine a family's suitability for rental assistance, and avoid providing limited Federal housing assistance to families who have previously demonstrated an inability to comply with HUD program requirements or who have an unpaid debt to a PHA.

DATES: *Comments Due Date:* May 3, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and sent to: Colette Pollard, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4178, Washington, DC 20410–5000; telephone 202.402.3400 (this is not a toll-free number) or email *Ms. Pollard at Collette.Pollard@hud.gov* for a copy of the proposed forms or other available information.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., L'Enfant Plaza, Room 2206, Washington, DC, telephone (202) 402–4109, for copies of other available documents (this is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to the Office of Management and Budget (OMB) for review, as required by the Paper Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Debts Owed to Public Housing Agencies & Terminations.

OMB Control Number: 2577–0266.

Description of the need for the information and proposed use: In accordance with 24 CFR 5.233, processing entities that administer the Public Housing, Section 8 Housing Choice Voucher, Moderate Rehabilitation programs are required to use HUD's Enterprise Income Verification (EIV) system to verify employment and income information of program participants and to reduce administrative and subsidy payment errors. The EIV system is a system of records owned by HUD, as published in the **Federal Register** on July 20, 2005 at 70 FR 41780 and updated on August 8, 2006 at 71 FR 45066.

The Department seeks to identify families who no longer participate in a HUD rental assistance program due to adverse termination of tenancy and/or assistance, and owe a debt to a Public Housing Agency (PHA). In accordance with 24 CFR 982.552 and 960.203, the PHA may deny admission to a program if the family is not suitable for tenancy for reasons such as, but not limited to: Unacceptable past performance in meeting financial obligations, history of criminal activity, eviction from Federally assisted housing in the last five years, family has committed fraud, bribery, or any other corrupt or criminal act in connection with a Federal housing program, or if a family currently owes rent or other amounts to the PHA or to another PHA in

connection with a Federally assisted housing program under the U.S. Housing Act of 1937.

Within the scope of this collection of information, HUD seeks to collect from all PHAs, the following information:

1. Amount of debt owed by a former tenant to a PHA;

2. If applicable, indication of executed repayment agreement;

3. If applicable, indication of bankruptcy filing;

4. If applicable, the reason for any adverse termination of the family from a Federally assisted housing program.

This information is collected electronically from PHAs via HUD's EIV system. This information is used by HUD to create a national repository of families that owe a debt to a PHA and/or have been terminated from a federally assisted housing program. This national repository is available within the EIV system for all PHAs to access during the time of application for rental assistance. PHAs are able to access this information to determine a family's suitability for rental assistance, and avoid providing limited Federal housing assistance to families who have previously been unable to comply with HUD program requirements. If this information is not collected, the Department is at risk of paying limited Federal dollars on behalf of families who may not be eligible to receive rental housing assistance. Furthermore, if this information is not collected, the public will perceive that there are no consequences for a family's failure to comply with HUD program requirements.

Agency form number, if applicable: Form HUD–52675.

Members of affected public: State or Local Government; Public Housing Agencies (PHAs), Individuals or Households.

Estimation of the Total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 4,013 respondents; 303,766 average number of families annually, requiring monthly average of 25,314 responses; 0.08333 hours per response; 25,303.71 total burden hours.

Status of the Proposed Information Collection: Extension of a previously approved collection

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: February 22, 2013.

Merrie Nichols-Dixon,

Deputy Director for Policy, Program and Legislative Initiatives.

[FR Doc. 2013–04912 Filed 3–1–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Number FR–5500–FA–13]

Announcement of Funding Awards for the Housing Opportunities for Persons With AIDS (HOPWA) Program for Fiscal Year (FY) 2011

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this notice announces 26 permanent supportive housing renewal grant awards totaling $28,111,948 from the Department's FY2011 Housing Opportunities for Persons With AIDS (HOPWA) program, and seven new competitive awards totaling $8,880,804, to assist communities with local planning efforts to improve the systematic delivery of housing and services to low-income individuals and their families living with HIV/AIDS. This notice makes available the names of the award recipients and grant amounts (reference Appendices A and B).

FOR FURTHER INFORMATION CONTACT: Benjamin Ayers, CPD Specialist, Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7212, Washington, DC 20410, telephone number 202–708–1934. To provide service for persons who are hearing-or-speech-impaired, this number may be reached via TTY by dialing the Federal Relay Service on 800–877–TTY, 800–877–8339, or 202–708–2565. (Telephone number, other than ''800'' TTY numbers are not toll free). Information on HOPWA, community development and consolidated planning, and other HUD programs may be obtained from the HUD Home Page at *www.hud.gov.* In addition to these competitive selections, 134 jurisdictions received formula based allocations during FY2011 totaling $297,888,000 to provide supportive housing programs for low-income individuals and their families living with HIV/AIDS. Descriptions of HOPWA formula and competitive programs may be obtained at: *http://hudhre.info/hopwa/index.cfm?do=viewHopwaLocalResources.*

SUPPLEMENTARY INFORMATION: The renewal grant application notification to expiring permanent supportive housing grants was established in a HUD Notice entitled, ''Standards for Fiscal Year 2011 HOPWA Permanent Supportive Housing Renewal Grant Applications,'' issued on January 25, 2011. The funding announcement for the new competitive grant awards were published in a Notice of Funding Availability (NOFA) on May 18, 2011. The HOPWA assistance made available in this announcement is authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), as amended by the Housing and Community Development Act of 1992 (Pub. L.102–550, approved October 28, 1992) and was appropriated by the HUD Appropriations Act for 2011.

The 26 renewal grant awards totaling $28,111, 948 and the seven new competitive grant awards totaling $8,972,579 will provide housing and supportive services to an estimated 1278 low income households and their families living with HIV/AIDS. These grant applications committed approximately $49.8 million in leveraging of other Federal, State, local, and private resources to provide additional supportive services for project beneficiaries.

The award of the seven new competitive grant recipients are funded under the HOPWA program's Special Projects of National Significance competitive grant program and these awards are for one-time only funding to be used over a three year grant period. This funding will support local planning and coordination efforts to develop and implement and Integrated HIV/AIDS Housing Plan (IHHP) for these respective communities. The IHHP(s) will be developed as a collaborative process to improve the systematic delivery of housing and services to low-income individuals and families living with HIV/AIDS and will serve as models for other communities across the U.S. These resources will allow States, localities, and nonprofits to devise place-based comprehensive strategies for meeting the housing needs of low-income persons with HIV/AIDS while enabling the development of new cross program approaches for integrated HIV care, (housing and services) by collaborating with diverse community agencies and planning bodies, including Public Housing Authorities and DHHS-funded Ryan White CARE Act and Centers for Disease Control and Prevention grantees. The renewal grants were announced on April 26, 2011, and the new competitive grant awards were announced on September 21, 2011.

Both the renewal and new competitive grant activities compliment HUD's implementation of the National HIV/AIDS Strategy (NHAS), HUD's

Fiscal Year 2010–2015 Strategic Plan and the Opening Doors Federal Strategic Plan to Prevent and End Homelessness. These award actions address goals to: prevent and end homelessness; increase the supply of affordable housing; and increase the coordination of mainstream housing resources and other health and human services. More information about HUD's HOPWA program, the funded grantees is available at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/aidshousing/programs*.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat.1987, 42 U.S.C. 3545), the Department is publishing the details of HOPWA renewal funding grant announcement in Appendix A and the competitive grant awards in Appendix B.

Dated: February 26, 2013.

Francis Bush,

Deputy Assistant Secretary for Operations, Office of Community Planning and Development.

Appendix A

FISCAL YEAR 2011 FUNDING AWARDS FOR HOPWA PERMANENT SUPPORTIVE HOUSING RENEWAL GRANTS

No.	State	Award recipient	Award
1	AK	Alaska Housing Finance Corp	$915,440.00
2	AL	Health Services Center, Inc	885,765.00
3	AL	AIDS Alabama, Inc	937,228.00
4	AZ	Cochise County	611,582.00
5	CO	Del Norte Neighborhood Development Corp	612,379.00
6	GA	City of Savannah	685,696
7	ID	Idaho Housing & Finance Association	1,349,068.00
8	IL	Cornerstone Services, Inc	926,251
9	IL	AIDS Foundation of Chicago	1,384,993.00
10	KY	Lexington-Fayette Urban County Government	1,430,000.00
11	MD	City of Baltimore, Office of Human Services	1,424,500.00
12	MD	AIDS Interfaith Residential Services, Inc	1,339,000.00
13	MN	Salvation Army, Harbor Lights	467,298.00
14	MS	Grace House	1,221,580.00
15	MT	State of Montana	1,430,000.00
16	NH	Harbor Homes, Inc	500,457.00
17	NH	State of New Hampshire	966,900.00
18	NM	Santa Fe Community Housing Trust	1,314,280
19	NY	Greyston Health Services, Inc	1,365,890.00
20	NY	Bailey House, Inc	1,325,494.00
21	TX	Tarrant County Community Development Division	950,966.00
22	VI	V.I. Community AIDS Resource & Education	1,373,400.00
23	VT	Vermont Housing and Conservation Board	1,430,000.00
24	WA	State of Washington	1,301,664.00
25	WI	AIDS Resource Center of Wisconsin	1,339,000
26	WY	Wyoming Department of Health	623,117.00
Total			28,111,948.00

Appendix B

FISCAL YEAR 2011 FUNDING AWARDS FOR NEW HOPWA PERMANENT SUPPORTIVE & TRANSITIONAL HOUSING GRANTS

No.	State	Award recipient	Award
2	CA	Los Angeles County Commission on HIV	$1,375,000.00
6	FL	River Region Human Services, Inc	1,353,743.00
7	MA	Justice Resource Institute, Inc	1,223,377.00
3	ME	Frannie Peabody Center	930,909.00
5	NY	Corporation for AIDS Research Education and Services Inc	1,344,375.00
4	OR	City of Portland	1,365,900.00
1	TX	City of Dallas	1,287,500.00
Total			8,880,804.00

[FR Doc. 2013–04907 Filed 3–1–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Number FR–5600–FA–41]

Announcement of Funding Awards for the Housing Opportunities for Persons With AIDS (HOPWA) Program for Fiscal Year (FY) 2012

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the U.S. Department of Housing and Urban Development Reform Act of 1989, this notice announces 28 permanent supportive housing renewal grant awards totaling $32,933,188 from the Department's FY2012 Housing Opportunities for Persons With AIDS (HOPWA) program. The notice announces the selection of 28 renewal grants for permanent supportive housing efforts. This notice makes available the names of the award recipients and grant amounts (reference Appendix A).

FOR FURTHER INFORMATION CONTACT: Benjamin Ayers, CPD Specialist, Office of HIV/AIDS Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7212, Washington, DC 20410, telephone (202) 708–1934. To provide service for persons who are hearing-or-speech-impaired, this number may be reached via TTY by dialing the Federal Relay Service on 800–877–TTY, (800–877–8339), or 202–708–2565. (Telephone numbers other than ''800'' TTY numbers are not toll free). Information on HOPWA, community development and consolidated planning, and other HUD programs may be obtained from the HUD Home Page at *www.hud.gov.* In addition to these competitive selections, 135 jurisdictions received formula based allocations during the FY2012 totaling $298,800,000 to provide supportive housing programs for low-income individuals and their families living with HIV/AIDS. Descriptions of the formula and competitive programs may be obtained at: *http://hudhre.info/hopwa/index.cfm?do=viewHopwaLocalResources.*

SUPPLEMENTARY INFORMATION: The renewal grant application notification to expiring permanent supportive housing grants was established in a Memorandum, entitled, ''Standards for Fiscal Year 2012 HOPWA Permanent Supportive Housing Renewal Grant Applications,'' issued on January 5, 2012. The HOPWA assistance made available in this notice is authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), as amended by the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) and was appropriated by the HUD Appropriations Act for 2012.

The 28 grant awards totaling $32,933,188 will provide housing and supportive services to an estimated 1,450 low-income households and their families living with HIV/AIDS. These grant applicants committed approximately $39.5 million in leveraging of other Federal, State, local, and private resources to provide additional supportive services for project beneficiaries. The awarded funding is to be used over a three year period to continue local permanent supportive housing efforts. The grant awards were announced on March 20, 2012. These grant activities compliment HUD's implementation of the National HIV/AIDS Strategy (NHAS), HUD's Fiscal Year 2010–2015 Strategic Plan, and the Opening Doors Federal Strategic Plan to Prevent and End Homelessness. These award actions address goals to: Prevent and end homelessness; increase the supply of affordable housing; and increase the coordination of mainstream housing resources and other health and human services. More information about HUD's HOPWA program and the funded grantees is available at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/aidshousing/programs.*

In accordance with Section 102(a)(4)(C) of the U.S. Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the details of HOPWA renewal funding grant awards in Appendix A.

Dated: February 26, 2013.

Frances Bush,

Deputy Assistant Secretary for Operations, Office of Community Planning and Development.

Appendix A

FISCAL YEAR 2012 FUNDING AWARDS FOR HOPWA PERMANENT SUPPORTIVE HOUSING RENEWAL GRANTS

State	Grantee name	City	Grant award
AK	State of Alaska—Alaska Housing Finance Corporation	Anchorage	$781,269
CA	City of Los Angeles Housing Department	Los Angeles	1,501,500
CA	County of Alameda Housing and Community Development Department	San Francisco	1,483,179
CA	Tenderloin AIDS Resource Center	San Francisco	1,276,170
CA	Salvation Army Alegria	Los Angeles	1,062,519
DE	Ministry of Caring, Inc	Wilmington	790,298
HI	Maui AIDS Foundation	Wailuku	1,440,477
HI	Gregory House Programs	Honolulu	1,390,650
IL	City of Chicago Department of Public Health	Chicago	1,487,815
IL	Chicago House & Social Service Agency, Inc	Chicago	1,285,370
IL	AIDS Foundation of Chicago	Chicago	1,476,160
MA	Community Healthlink, Inc	Worcester	899,274
MA	AIDS Action Committee of Massachusetts	Boston	1,415,025
MD	City of Baltimore Office of Human Services	Baltimore	1,405,950
ME	Frannie Peabody Center (Housing Assistance Program)	Portland	1,054,799
ME	Frannie Peabody Center (Outreach to Rural Maine)	Portland	1,309,169
ME	Frannie Peabody Center (Racial and Ethnic Minority Outreach Program)	Portland	1,432,653
MI	Cass Community Social Services, Inc	Detroit	1,348,970
MO	Interfaith Residence Dba Doorways (Central and Southern Missouri)	Saint Louis	1,109,912
MO	Interfaith Residence Dba Doorways (Southern Illinois)	Saint Louis	965,658
MT	State of Montana Department of Public Health and Human Services	Helena	1,482,040
NH	City of Nashua Division of Public Health and Community Service	Nashua	1,430,000
NH	State of New Hampshire Bureau of Homeless and Housing Services	Concord	734,770
NY	Bailey House, Inc	New York City	1,081,922

FISCAL YEAR 2012 FUNDING AWARDS FOR HOPWA PERMANENT SUPPORTIVE HOUSING RENEWAL GRANTS—Continued

State	Grantee name	City	Grant award
PA	Calcutta House	Philadelphia	837,303
TX	City of Dallas Housing and Community Services Department	Dallas	746,853
VT	Burlington Housing Authority	Burlington	392,906
WI	AIDS Resource Center of Wisconsin	Milwaukee	1,310,577
Total			32,933,188

[FR Doc. 2013–04911 Filed 3–1–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Number FR–5600–FA–14]

Announcement of Funding Awards for the Section 4 Capacity Building for Community Development and Affordable Housing Program Fiscal Year 2012

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the 2012 Notice of Funding Availability (NOFA) for the Section 4 Capacity Building for Community Development and Affordable Housing grants program. This announcement contains the names of the award recipients and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Frances Bush, Deputy Assistant Secretary for Operations, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7128, Washington, DC 20410, telephone number 202–708–1934. To provide service for persons who are hearing-or-speech-impaired, this number may be reached via TTY by dialing the Federal Relay Service on 800–877–TTY, 800–877–8339, or 202–402–7515. Telephone number, other than ''800'' TTY numbers are not toll free.

SUPPLEMENTARY INFORMATION: HUD's Capacity Building for Community Development and Affordable Housing program is authorized by Section 4 of the HUD Demonstration Act of 1993 (Pub. L. 103–120, 107 Stat. 1148, 42 U.S.C. 9816 note), as amended, and the Consolidated and Continuing Appropriations Act of 2012 (Pub. L. 112–55). The Section 4 Capacity Building program provides grants to national community development intermediaries to enhance the capacity and ability of community development corporations and community housing development organizations to carry out community development and affordable housing activities that benefit low-income families and persons. Capacity Building funds support activities such as training, education, support, loans, grants, and development assistance. The Fiscal Year 2012 competition was announced on *http://www.hud.gov* on April 12, 2012. The NOFA provided $35 million for Section 4 Capacity Building grants for the Fiscal Year 2012 competition, HUD awarded three competitive Section 4 Capacity Building grants totaling $ 35,000,000.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and the amounts of the awards in Appendix A to this document.

Dated: February 26, 2013.

Frances Bush,

Deputy Assistant Secretary for Operations, Office of Community Planning and Development.

Appendix A

FISCAL YEAR 2012 FUNDING AWARDS FOR SECTION 4 CAPACITY BUILDING FOR COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING PROGRAM GRANTS

No.	State	Award recipient	Award
1	MD	Enterprise Community Partners, Inc	$15,649,313
2	NY	Local Initiatives Support Corporation	15,204,729
3	GA	Habitat for Humanity International	4,145,958
Total			35,000,000

[FR Doc. 2013–04910 Filed 3–1–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2013–N038; 40120–1112–0000–F2]

Emergency Issuance of Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service (Service), have waived the 30-day public notice period and have issued an endangered species permit to address emergency veterinary care for an injured green sea turtle *(Chelonia mydas)* in the U.S. Virgin Islands.

ADDRESSES: Documents and other information submitted with the permit are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any

party who submits a written request for a copy of such documents to the following: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: Cameron Shaw, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Cameron Shaw, telephone 904–731–3191; facsimile 904–731–3045.

SUPPLEMENTARY INFORMATION: We have issued the following permit for activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). We provide this notice under section 10(c) of the Act. Endangered Species Act regulations at title 50, Code of Federal Regulations (CFR) Part 17.22, allow us to waive public notice in an emergency situation where the life or health of an endangered animal is threatened and no reasonable alternative is available to the applicant.

Permit Application Number: TE–96401A.

Applicant: St. Thomas Response and Rehabilitation, Coral World Ocean Park, St. Thomas, Virgin Islands.

The permittee has been authorized to receive and retain, for greater than 45 days, a single green sea turtle for veterinary treatment or euthanasia under certain conditions.

Dated: February 15, 2013.

Kenneth A. Garrahan,

Acting Regional Director.

[FR Doc. 2013–04881 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2012–N263; FXES11150200000F4–123–FF02ENEH00]

Final Candidate Conservation Agreement With Assurances, Final Environmental Assessment, and Finding of No Significant Impact; Lesser Prairie Chicken, Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), make available the final Agricultural Candidate Conservation Agreement with Assurances (CCAA) for the lesser prairie chicken (*Tympanuchus pallidicinctus*) (LEPC) in Oklahoma, as well as the final environmental assessment (EA) and the draft Finding of No Significant Impact (FONSI) under the National Environmental Policy Act of 1969 (NEPA). The Oklahoma Department of Wildlife Conservation (ODWC) applied for an enhancement of survival permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). The permit application included a draft CCAA between the Service and ODWC for the Lesser Prairie Chicken (LEPC) in 14 Oklahoma counties. Our decision is to authorize the issuance of an enhancement of survival permit to the ODWC for implementation of the CCAA (Preferred Alternative described below).

DATES: We will issue a FONSI and make a final permit decision after publication of this notice.

ADDRESSES: For where to view documents, see Availability of Documents in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Dixie Porter, Ph.D., Field Supervisor, by U.S. mail at U.S. Fish and Wildlife Service, 9014 East 21st Street, Tulsa, OK 74129, or by telephone at 918–581–7458.

SUPPLEMENTARY INFORMATION: We announce the availability of the final CCAA for the LEPC in Oklahoma, final EA, and FONSI, which we developed in compliance with the agency decision-making requirements of the NEPA. All alternatives have been described in detail, evaluated, and analyzed in our December 2012 final EA and the final CCAA.

Based on our review of the alternatives and their environmental consequences as described in our final EA, we have selected Alternative 2, the proposed agricultural CCAA for the LEPC in Oklahoma. The proposed Federal action is the issuance of a section 10(a)(1)(A) enhancement of survival permit to the ODWC and resulting implementation of the CCAA for the conservation of the LEPC in Oklahoma. With the assistance of the Service, the ODWC would implement conservation measures for the LEPC by removing threats to the survival of these species and protecting their habitat. The CCAA would be in effect for 25 years in Alfalfa, Beaver, Beckham, Cimarron, Custer, Dewey, Ellis, Harper, Major, Roger Mills, Texas, Washita, Woods, and Woodward Counties, Oklahoma. This area constitutes the CCAA's Planning Area, with Covered Areas being eligible non-Federal lands within the Planning Area that provide suitable habitat for LEPC, or have the potential to provide suitable LEPC habitat with the implementation of conservation management practices. The CCAA is in addition to a larger conservation effort for the LEPC across its range within Texas, Oklahoma, Colorado, Kansas, and New Mexico. The CCAA was developed in support of a section 10(a)(1)(A) enhancement of survival permit.

ODWC will enroll participating landowners through issuance of Certificates of Inclusion pursuant to the CCAA. Participating landowners who are fully implementing the CCAA provisions of the enhancement of survival permit will be provided assurances that, should the LEPC be listed, the Service will not require them to provide additional land, water, or financial resources, nor will there be any further restrictions to their land, water, or financial resources than those they committed to under the CCAA provisions. The CCAA provisions are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). Furthermore, if the LEPC is listed, participating landowners would be provided incidental take authorization under the enhancement of survival permit for the level of incidental take on the enrolled lands consistent with the activities under the CCAA provisions. The proposed term of the CCAA is 25 years from the date the CCAA is signed by ODWC and the Service. The permit will become effective on the date of a final rule that lists the LEPC as threatened or endangered and will continue through the end of the CCAA term.

Background

The LEPC currently occurs in five States: Colorado, Kansas, New Mexico, Oklahoma, and Texas. The species inhabits rangelands dominated primarily by shinnery oak-bluestem and sand sagebrush-bluestem vegetation types. Major factors affecting the status of the LEPC are habitat fragmentation, overutilization by domestic livestock, oil and gas development, wind energy development, loss of native rangelands to cropland conversion, herbicide use, fire suppression, and drought. In 1998, the Service determined that listing of the LEPC was warranted but precluded because of other higher priority species. The December 2008 Candidate Notice of Review elevated the listing priority of the LEPC from an ''8'' to a ''2'' because the overall magnitude of threats to the LEPC were increasing and occurring throughout almost all of the currently occupied range.

The Service worked with the ODWC on the development of the CCAA for the LEPC in the State of Oklahoma. The CCAA was initiated in order to facilitate conservation and restoration of the LEPC on private and State trust lands in

Oklahoma. Expected conservation benefits for the LEPC from implementation of the conservation measures in this CCAA will be recognized through improved population performance. Specifically, this will entail expected increases in adult and juvenile survivorship, nest success, and recruitment rates.

Furthermore, LEPC conservation will be enhanced by providing regulatory assurances for participating landowners. With the issuance of the permit, the Service would provide assurances to ODWC and participating landowners that no additional conservation measures would be required beyond those specified in the CCAA should the species become listed in the future as long as ODWC and participating landowners implement and maintain the conservation measures specified in the CCAA in good faith through the duration of the CCAA. There will be a measure of security for participating landowners in the knowledge that they will not incur additional land use restrictions if the species is listed under the Act.

The ODWC has committed to guiding the implementation of the CCAA and requests issuance of the enhancement of survival permit in order to address the take prohibitions of section 9 of the Act should the species become listed in the future. The permit would authorize incidental take associated with implementation of conservation commitments and measures described in the CCAA and existing land uses, primarily agricultural operations, and other covered activities on the enrolled properties.

The Secretary of the Interior has delegated to the Service the authority to approve or deny a section (10)(a)(1)(A) permit in accordance with the Act. To act on ODWC's permit application, we must determine that the CCAA meets the issuance criteria specified in the Act and at 50 CFR 17.22 and 17.32. The issuance of a section (10)(a)(1)(A) permit is a Federal action subject to NEPA compliance, including the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508). The draft CCAA and application for the enhancement of survival permit were not eligible for categorical exclusion under NEPA.

On June 25, 2012 (77 FR 37917), we issued a draft EA and requested public comment on our evaluation of the potential impacts associated with issuance of a permit for implementation of the CCAA and to evaluate alternatives, along with the draft CCAA. We included public comments and responses associated with the draft EA and draft CCAA in an appendix to the final EA.

Purpose and Need

The purpose of the CCAA is to conserve the ecosystems depended upon by the LEPC in such a way as to potentially preclude the need to list this species under the Act. This purpose, under the CCAA, would be accomplished through the voluntary involvement of participating landowners who are willing to protect, maintain, enhance, and develop the habitats necessary for the survival and conservation of LEPC within the planning area. The purpose of the permit is to provide assurances to ODWC and participating landowners that no additional conservation measures would be required beyond those specified in the CCAA should the species become listed in the future, as long as ODWC implements and maintains the conservation measures specified in the CCAA in good faith through the duration of the CCAA and associated permit. Should listing of the LEPC occur, the permit would authorize incidental take associated with implementation of conservation commitments and measures described in the CCAA, as well as existing land uses, primarily agricultural operations, and other covered activities on the enrolled properties.

The CCAA and permit are needed to protect and conserve the LEPC through reducing threats that this species faces while providing a mechanism to authorize incidental take of the LEPC, should it be listed pursuant to the Act, for the participating landowners who voluntarily enroll their property and continue conservation activities under the permit.

The Service identified key issues and relevant factors through public scoping, working with other agencies and groups, and reviewing comments from the public. We received 13 comments from eight responders during the public comment period. Three of the comments had reference to the draft EA and 10 referenced the CCAA. The Service's responses to comments are summarized in Appendix A of the final EA. We believe comments are addressed and reasonably accommodated in the final documents. No new significant issues arose following publication of the draft documents.

Alternatives

Alternative 1 (No Action): In the No Action Alternative, the Service would not approve the draft CCAA nor issue the associated section 10(a)(1)(A) enhancement of survival permit. Therefore, a programmatic effort to reduce threats through enrollment of private landowners by ODWC that provides regulatory assurances through a section 10(a)(1)(A) permit of the Act and its implementing regulations, policy, and guidance for CCAAs would not be available. Individual actions and smaller efforts could be undertaken, but the major incentive for landowners to conserve a candidate species such as LEPC would not be in place. The No Action alternative provides the baseline for comparing the environmental effects of the preferred alternative.

Alternative 2 (Preferred Alternative): Our selected alternative is the proposed CCAA, the preferred alternative, as described in the final EA, which provides for the issuance of a permit pursuant to section 10(a)(1)(A) of the Act to the ODWC for incidental take that is anticipated to occur as a result of implementing the CCAA as proposed. The preferred alternative will provide participating landowners, who voluntarily agree to implement conservation measures to restore and/or maintain suitable habitat for LEPCs on their property and manage their lands to remove threats to the LEPC, regulatory assurances that their conservation efforts will not result in future regulatory obligations in excess of those they agree to at the time they enter into the CCAA. Participating landowners must agree to implement a Wildlife Management Plan (WMP) developed by ODWC, which will include a list of conservation actions for the LEPC and its habitat. ODWC will enroll participating landowners under the CCAA through issuance of Certificates of Inclusion (CI), which will serve to link the individual site-specific WMPs to the programmatic CCAA and convey the regulatory assurances provided in the permit to the participating landowner. The CCAA conservation actions to be implemented or maintained are intended to conserve, restore, and/or enhance LEPC habitat so that progress toward sustainable population levels can occur. Implementation of these actions is also intended to reduce any unfavorable impacts to LEPC arising from the management and utilization of the enrolled lands. CI applications and the supporting ODWC-approved WMPs will address the improvements to be made, sources of funding, responsibilities for completion of improvements, a time frame, and a monitoring plan to assure the success of improvements. This alternative includes implementation of conservation measures to avoid and

minimize the potential incidental take of lesser prairie chicken to the maximum extent practicable.

Decision

We intend to issue an enhancement of survival permit allowing ODWC to implement the preferred alternative (Alternative 2), as it is described in the final CCAA and EA. Our decision is based on a thorough review of the alternatives and their environmental consequences. Implementation of this decision entails the issuance of the permit, including all terms and conditions governing the permit. Implementation of this decision requires that ODWC adhere to the conservation measures specified in the CCAA in good faith through the duration of the CCAA and permit.

Rationale for Decision

We have selected the preferred alternative (Alternative 2) for implementation based on multiple environmental and social factors, including potential impacts to the LEPC, the benefits to the LEPC that are expected to be achieved through implementation of conservation actions and measures contained in the CCAA, and social and economic considerations. We did not choose the No Action Alternative, because, under it, a programmatic effort to reduce threats to the LEPC through enrollment of private landowners by ODWC that provides assurances through section 10(a)(1)(A) of the Act and its implementing regulations, policy, and guidance for CCAAs would not be available. Individual actions and smaller efforts could be undertaken, but the major incentive for landowners to conserve a candidate species such as the LEPC would not be in place, and these smaller efforts would be incapable of providing comprehensive or comparable net benefits as compared to those under the preferred alternative.

In order for us to issue a permit, we must ascertain that the CCAA meets the issuance criteria set forth in 16 U.S.C.1539(a)(2)(A) and (B). In addition, we must determine that the applicant has met all issuance criteria for the permit contained in 50 CFR 17.22(d)(1) and 17.32(d)(1). We have made our determination based on the criteria summarized below:

1. The taking will be incidental. We find that the take of LEPC would be incidental to otherwise lawful activities. ODWC will implement the CCAA, and participating landowner activities will include implementation of conservation commitments and measures described in the CCAA and land uses, primarily agricultural activities, on the enrolled properties. Incidental take authorized under the permit would be in the forms of harassment, harm, and mortality associated with the conservation (e.g., prescribed burning, prescribed grazing, upland wildlife habitat management, and conservation cover) and monitoring activities necessary to implement the CCAA. Incidental take also is anticipated to occur on enrolled lands as a result of ongoing otherwise-lawful agricultural operations (e.g., crop cultivation and harvesting, livestock grazing, and farm equipment operation), recreational activities (e.g., hunting of other species, dog training, hiking, camping, vehicle use, viewing of LEPCs or other wildlife, and other similar activities), and limited construction (e.g., construction of a storage building/barn; installation of overhead power lines to a house; or expansion, renovation, or rebuilding of a house).

2. The CCAA complies with the requirements of the CCAA policy. The ODWC has developed the CCAA and permit application pursuant to the requirements in the implementing regulations and the issuance criteria for a permit. Conservation benefits for the LEPC from implementation of the CCAA are expected in the form of avoidance of negative impacts; reduction of threats; and conservation, enhancement, and/or restoration of habitat intended to contribute to establishing or augmenting and maintaining viable populations of LEPCs in Alfalfa, Beaver, Beckham, Cimarron, Custer, Dewey, Ellis, Harper, Major, Roger Mills, Texas, Washita, Woods, and Woodward Counties. In addition, conservation of LEPCs would be enhanced by improving and encouraging cooperative management efforts between the ODWC, Service, and participating landowners who own, control, or influence LEPC habitat in Oklahoma. Also, this CCAA may be used as a model for CCAAs in other parts of the LEPC's range to encourage cooperative management and conservation.

3. The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of the survival and recovery in the wild of any species. The Act's legislative history establishes the intent of Congress that this issuance criteria be identical to a regulatory finding of no ''jeopardy'' under section 7(a)(2) of the Act. As a result, issuance of this section 10(a)(1)(A) permit was reviewed by the Service according to provisions of section 7 of the Act. In the Intra-Service Section 7 Conference Opinion, incorporated herein by reference, the Service concludes that issuance of a permit will not jeopardize the continued existence of the LEPC or any other species. The taking associated with the implementation of the CCAA will be incidental to efforts associated with changes in land use practices and conservation actions for LEPCs in their historic range, and gathering important biological information necessary to continue conservation efforts for the species.

4. Implementation of the terms of the CCAA is consistent with applicable Federal, State, and Tribal laws and regulations. The Service is unaware of any law or regulation that would prevent the implementation of the CCAA and the accompanying permit. The permit will include conditions that revoke the take provisions of the permit if any applicable State, Federal, or tribal law or regulation is broken.

5. Implementation of the terms of the CCAA will not be in conflict with any ongoing conservation programs for species covered by the permit. The CCAA in Oklahoma for the LEPC furthers ongoing conservation activities for the species' conservation, and is essential in developing additional conservation agreements within the historic range of the LEPC. The Service, Bureau of Land Management, and non-Federal landowners developed a CCA and CCAA to implement similar conservation measures on Federal and non-Federal lands within seven counties in New Mexico. The Service, Texas Parks and Wildlife Department, and non-Federal landowners also have developed a CCAA to implement conservation measures on non-Federal Lands within 50 counties in Texas. This combined Oklahoma-Texas-New Mexico effort should provide conservation incentives and result in greater success in reducing threats and stabilizing the status of LEPC.

6. The Applicant has shown capability for and commitment to implementing all of the terms of the CCAA. The ODWC has shown the ability to administer the CCAA and work effectively with participating landowners to implement conservation commitments in the CCAA. The funding for implementation will come from several sources and will be in place prior to implementation. The ODWC will also have assistance from the Service, Natural Resource Conservation Service, LEPC experts, and stakeholders in determining the conservation priorities. Based on conservation measures described in the CCAA, the Service does not expect any circumstances to occur that would preclude the Applicant's funding and implementation of the CCAA.

Section 9 of the Act and its implementing regulations prohibit the ''taking'' of threatened or endangered species. However, under limited circumstances, we may issue permits to take listed wildlife species incidental to, and not for the purpose of, otherwise lawful activities.

Availability of Documents

Electronic copies of the final CCAA and final EA will be available on the Service's LEPC Web site, *http://www.fws.gov/southwest/es/LPC.html.* Alternatively, you may obtain CD–ROMs with electronic copies of these documents by writing to Ms. Dixie Porter, Field Supervisor, U.S. Fish and Wildlife Service, 9014 East 21st Street, Tulsa, OK 74129; calling 918–581–7458; or faxing 918–581–7467. Please refer to TE72923A–0 when requesting documents. The final CCAA and final EA also are available for public inspection, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the Tulsa address listed above.

Persons wishing to review the application or FONSI may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: January 25, 2013.

Benjamin Tuggle,

Regional Director, Southwest Region, Fish and Wildlife Service.

[FR Doc. 2013–04888 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW181235]

Notice of Invitation To Participate; Coal Exploration License Application WYW181235, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Black Butte Coal Company on a pro rata cost-sharing basis, in its program for the exploration of coal deposits owned by the United States of America in Sweetwater County, Wyoming.

DATES: This notice of invitation will be published in the *Rock Springs Rocket Miner* once each week for 2 consecutive weeks beginning the week of March 4, 2013, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Black Butte Coal Company, as provided in the **ADDRESSES** section below, no later than April 3, 2013.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW181235): BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, BLM, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901. The written notice should be sent to the following addresses: Black Butte Coal Company, c/o AE Coal, LLC, Attn: Jason Russell, 170 South Main Street, Suite 700, Salt Lake City, UT 84101, and BLM, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, at 307–775–6258. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Black Butte Coal Company has applied to the BLM for a coal exploration license on public land adjacent to its Black Butte Coal Mine. The purpose of the exploration program is to obtain structural and quality information about the coal. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register**. The Federal coal resources included in the exploration license application are located in the following-described lands in Wyoming:

Sixth Principal Meridian

T. 18 N., R. 100 W.,
Secs. 14 and 26;
Sec. 34, lots 1 to 16, inclusive.

T. 19 N., R. 100 W.,
Sec. 6, lots 8 to 14, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 12;
Sec. 18, lots 5 to 8, inclusive, E½W½, and E½;
Sec. 20, lots 1 to 16, inclusive;
Sec. 24, NE¼, E½NE¼NW¼, S½SW¼NW¼, SE¼NW¼, and S½;
Sec. 26, lots 1 to 16, inclusive.

T. 18 N., R. 101 W.,
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½.

T. 19 N., R. 101 W.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Secs. 12, 14, 22, 24, 26, 28, and 34.

The areas described aggregate 11,468.77 acres.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Donald A. Simpson,

State Director.

[FR Doc. 2013–04743 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW181233]

Notice of Invitation To Participate; Coal Exploration License Application WYW181233, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Black Butte Coal Company on a pro rata cost-sharing basis, in its program for the exploration of coal deposits owned by the United States of America in Sweetwater County, Wyoming.

DATES: This notice of invitation will be published in the *Rock Springs Rocket Miner* once each week for 2 consecutive weeks beginning the week of March 4, 2013, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Black Butte Coal Company, as provided in the **ADDRESSES** section below, no later than April 3, 2013.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following

offices (serialized under number WYW181233): BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, BLM, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901. The written notice should be sent to the following addresses: Black Butte Coal Company, c/o AE Coal, LLC, Attn: Jason Russell, 170 South Main Street, Suite 700, Salt Lake City, UT 84101, and BLM, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, at 307–775–6258. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Black Butte Coal Company has applied to the BLM for a coal exploration license on public land in the Salt Wells area near the existing Black Butte Coal Mine. The purpose of the exploration program is to obtain structural and quality information of the coal. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register**. The Federal coal resources included in the exploration license application are located in the following-described lands in Wyoming:

Sixth Principal Meridian

T. 17 N., R. 100 W.,
Sec. 18, lots 5 to 8, inclusive, E½W½, and E½;
Sec. 30, lots 5 to 8, inclusive, E½W½, and E½.

T. 16 N., R. 101 W.,
Sec. 2, lots 9 to 12, inclusive, and S½;
Sec. 4, lots 9 to 12, inclusive, and S½;
Sec. 6, lots 13 to 18, inclusive, E½SW¼, and SE¼;
Secs. 8 and 10;
Sec. 18, lots 5 to 8, inclusive, E½W½, and E½;
Sec. 20;
Sec. 30, lots 5 to 8, inclusive, E½W½, and E½.

T. 17 N., R. 101 W.,
Sec. 2, lots 1 and 2, S½NE¼, SE¼NW¼, and S½;
Secs. 8, 12, and 14;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Secs. 22, 24, 26, 28, 32, and 34.

T. 16 N., R. 102 W.,
Sec. 2, lots 1 to 4, inclusive, and S½;
Secs. 10, 12, 14, 22, 24, 26, and 28;
Sec. 34, NE¼, N½NW¼, SE¼NW¼, and S½.

T. 17 N., R. 102 W.,
Sec. 24.

The areas described aggregate 18,998.72 acres.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Donald A. Simpson,
State Director.

[FR Doc. 2013–04741 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW181224]

Notice of Invitation To Participate; Coal Exploration License Application WYW181224, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Peabody Powder River Mining, LLC, on a pro rata cost-sharing basis, in its program for the exploration of coal deposits owned by the United States of America in Campbell County, Wyoming.

DATES: This notice of invitation will be published in the *Gillette News-Record* once each week for 2 consecutive weeks beginning the week of March 4, 2013, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Peabody Powder River Mining LLC, as provided in the **ADDRESSES** section below, no later than April 3, 2013.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW181224): BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, BLM, High Plains District Office, 2987 Prospector Drive, Casper, WY 82604. The written notice should be sent to the following addresses: Peabody Powder River Mining LLC, c/o Peabody Energy Corporation, Attn: Adam Stephens, 1013 E. Boxelder, Gillette, WY 82717, and BLM, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, at 307–775–6258. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Peabody Powder River Mining LLC has applied to the BLM for a coal exploration license on public land adjacent to its North Antelope Rochelle Coal Mine. The purpose of the exploration program is to obtain structural and quality information of the coal. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register**. The Federal coal resources included in the exploration license application are located in the following described lands in Wyoming:

Sixth Principal Meridian

T. 42 N., R. 70 W.,
Sec. 7, lots 15 to 20, inclusive;
Sec. 8, lots 13 to 16, inclusive;
Sec. 17, lots 1 to 16, inclusive;
Sec. 18, lots 5 to 20, inclusive;
Sec. 19, lots 5 to 8, inclusive;
Sec. 20, lots 1 to 4, inclusive.

T. 41 N., R. 71 W.,
Sec. 2, lots 5 to 20, inclusive;
Sec. 3, lots 5 to 20, inclusive;
Sec. 10, lots 1 to 4, inclusive, and lots 6 to 10, inclusive;
Sec. 11, lots 1 to 12, inclusive, and lots 14 to 16, inclusive.

T. 42 N., R. 71 W.,
Sec. 1, lots 7 to 10, inclusive, and lots 15 to 18, inclusive;
Sec. 2, lots 5 to 20, inclusive;
Sec. 11, lots 1 to 16, inclusive;
Sec. 12, lots 1 to 16, inclusive;
Sec. 13, lots 1 to 16, inclusive;
Sec. 14, lots 1 to 16, inclusive;
Sec. 23, lots 1 to 4, inclusive;
Sec. 24, lots 1 to 4, inclusive;
Sec. 34, lots 13 to 16, inclusive.

The areas described aggregate 8,261.93 acres.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Donald A. Simpson,
State Director.

[FR Doc. 2013–04734 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW181234]

Notice of Invitation to Participate; Coal Exploration License Application WYW181234, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Black Butte Coal Company on a pro rata cost-sharing basis, in its program for the exploration of coal deposits owned by the United States of America in Sweetwater County, Wyoming.

DATES: This notice of invitation will be published in the *Rock Springs Rocket Miner* once each week for 2 consecutive weeks beginning the week of March 4, 2013, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Black Butte Coal Company, as provided in the **ADDRESSES** section below, no later than April 3, 2013.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW181234): BLM, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, BLM, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901. The written notice should be sent to the following addresses: Black Butte Coal Company, c/o AE Coal, LLC, Attn: Jason Russell, 170 South Main Street, Suite 700, Salt Lake City, UT 84101, and BLM, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, at 307–775–6258. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Black Butte Coal Company has applied to the BLM for a coal exploration license on public land near the existing Leucite Hills Coal Mine located near Point of Rocks, Wyoming. The purpose of the exploration program is to obtain structural and quality information of the coal. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register**. The Federal coal resources included in the exploration license application are located in the following-described lands in Wyoming:

Sixth Principal Meridian

T. 19 N., R. 100 W.,
Sec. 2, lots 5 to 8, inclusive, S½N½, and S½.

T. 20 N., R. 100 W.,
Sec. 6, lots 5 to 10, inclusive, E½SW¼, SE¼;
Sec. 8, W½;
Sec. 18, lots 5 to 8, inclusive, E½W½, and E½;
Secs. 20 and 34.

T. 21 N., R. 100 W.,
Sec. 30, lots 5 to 8, inclusive, E½W½, and E½;
Sec. 32, lots 1 to 4, inclusive, N½, and N½S½.

T. 20 N., R. 101 W.,
Sec. 2, lots 1 to 4, inclusive, and S½;
Sec. 4, lots 1 to 4, inclusive, and S½;
Sec. 26, S½SW¼ and E½.

T. 21 N., R. 101 W.,
Secs. 20 and 28;
Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 34, N½ and SE¼.

The areas described aggregate 8,270.32 acres.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1)

Donald A. Simpson,
State Director.

[FR Doc. 2013–04733 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Gulf of Mexico (GOM), Outer Continental Shelf (OCS), Eastern Planning Area (EPA) Lease Sale 225 and 226, Oil and Gas Lease Sales

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability (NOA) of the draft environmental impact statement (EIS) and public meetings.

Authority: This NOA is published pursuant to the regulations (40 CFR part 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 432

SUMMARY: BOEM has prepared a Draft EIS on oil and gas lease sales tentatively scheduled in 2014 and 2016 in the EPA offshore the States of Louisiana, Mississippi, Alabama, and Florida. Under the *Proposed Final Outer Continental Shelf Oil & Gas Leasing Program: 2012–2017* (Five-Year Program), two annual lease sales are scheduled for the EPA. The proposed EPA lease sales are Lease Sales 225 and 226.

SUPPLEMENTARY INFORMATION: The Draft EIS provides information on the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in this area of the EPA. The Draft EIS incorporates by reference the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012–2017; Western Planning Area Lease Sales 229, 233, 238, 246, and 248; Central Planning Area Lease Sales 227, 231, 235, 241, and 247, Final Environmental Impact Statement* (2012–2017 WPA/CPA Multisale EIS; OCS EIS/EA BOEM 2012–019). The Draft EIS tiers from the *Outer Continental Shelf Oil and Gas Leasing Program: 2012–2017 Final Programmatic Environmental Impact Statement.* Subject-matter experts surveyed scientific journals and available scientific data, gathered information, and interviewed personnel from academic institutions and Federal, State, and local agencies. BOEM also conducted an extensive search for new information in consideration of the *Deepwater Horizon* explosion, oil spill, and cleanup. BOEM has examined the potential impacts of routine activities and accidental events associated with the proposed lease sales, and the incremental contribution of the proposed lease sales to the cumulative impacts on environmental and socioeconomic resources. The Draft EIS also includes an analysis of a low-probability catastrophic spill in Appendix B. The oil and gas resource estimates and scenario information for this Draft EIS are presented as a range that would encompass the resources and activities estimated for an EPA proposed lease sale.

Draft EIS Availability: BOEM has printed and will be distributing a limited number of paper copies. In keeping with the Department of the Interior's mission to protect natural resources and to limit costs while ensuring availability of the document to the public, BOEM will primarily

distribute digital copies of this Draft EIS on compact discs. However, if you require a paper copy, BOEM will provide one upon request if copies are still available.

1. You may obtain a copy of the Draft EIS from the Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Public Information Office (GM 250I), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800–200–GULF).

2. You may download or view the Draft EIS on BOEM's Internet Web site at *http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/nepaprocess.aspx.*

Several libraries along the Gulf Coast have been sent copies of the Draft EIS. To find out which libraries have copies of the Draft EIS for review, you may contact BOEM's Public Information Office or visit BOEM's Internet Web site at *http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/nepaprocess.aspx.*

Comments: Federal, State, and local government agencies and other interested parties are requested to send their written comments on the Draft EIS in one of the following ways:

1. In an envelope labeled ''Comments on the EPA 225/226 Draft EIS'' and mailed (or hand carried) to Mr. Gary D. Goeke, Chief, Regional Assessment Section, Office of Environment (GM 623E), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

2. Through the regulations.gov web portal: Navigate to *http://www.regulations.gov* and search for ''Oil and Gas Lease Sales: Gulf of Mexico, Outer Continental Shelf; Eastern Planning Area Lease Sales 225 and 226''. (**Note:** It is important to include the quotation marks in your search terms.) Click on the ''Comment Now!'' button to the right of the document link. Enter your information and comment, then click ''Submit''.

3. BOEM email address: *boemegomeis@BOEM.gov.*

Comments should be submitted no later than 45 days from the publication of this NOA.

Public Meetings: BOEM will hold public meetings to obtain comments regarding the Draft EIS. These meetings are scheduled as follows:

- Tallahassee, Florida: Tuesday, March 26, 2013, Hilton Garden Inn Tallahassee Central, 1330 Blairstone Road, Tallahassee, Florida 32301; one meeting beginning at 1:00 p.m. EDT;
- Panama City Beach, Florida: Wednesday, March 27, 2013, Wyndham Bay Point Resort, 4114 Jan Cooley Drive, Panama City Beach, Florida; two meetings, the first beginning at 1:00 p.m. CDT and the second beginning at 6:00 p.m. CDT;
- Mobile, Alabama: Thursday, March 28, 2013, Five Rivers—Alabama's Delta Resource Center, 30945 Five Rivers Boulevard, Spanish Fort, Alabama; one meeting beginning at 1:00 p.m. CDT;
- Gulfport, Mississippi: Friday, March 29, 2013, Courtyard by Marriott Gulfport Beachfront MS Hotel, 1600 East Beach Boulevard, Gulfport, Mississippi; one meeting beginning at 1:00 p.m. CDT; and
- New Orleans, Louisiana: Monday, April 1, 2013, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana; one meeting beginning at 1:00 p.m. CDT.

FOR FURTHER INFORMATION CONTACT: For more information on the Draft EIS, you may contact Mr. Gary D. Goeke, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Office of Environment (GM 623E), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 or by email at *boemegomeis@BOEM.gov.* You may also contact Mr. Goeke by telephone at (504) 736–3233.

Public Disclosure of Names and Addresses

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: February 25, 2013.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2013–04963 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Draft Environmental Impact Statement/ Environmental Impact Report for Yolo Bypass Salmonid Habitat Restoration and Fish Passage, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent and scoping meetings.

SUMMARY: The Bureau of Reclamation and California Department of Water Resources intend to prepare an environmental impact statement/environmental impact report (EIS/EIR) for the implementation of actions I.6.1 and I.7 identified in the National Marine Fisheries Service's 2009 Biological Opinion and Conference Opinion on the Long-term Operation of the Central Valley Project and State Water Project Reasonable and Prudent Alternative. These actions consist of salmonid habitat restoration efforts within the lower Sacramento River basin and fish passage through the Yolo Bypass. We are seeking suggestions and information on the alternatives and topics to be addressed and any other important issues related to the proposed action.

DATES: Submit written comments on the scope of the environmental impact statement by April 3, 2013.

Oral and written comments will also be accepted during two scoping meetings held to solicit public input on alternatives, concerns, and issues to be addressed in the environmental impact statement/environmental impact report:

1. March 14, 2013, 1:30–3:30 p.m., West Sacramento, California.

2. March 14, 2013, 6:30–8:30 p.m., Woodland, California.

ADDRESSES: Send written comments to Traci Michel, Project Manager, Bureau of Reclamation, Bay-Delta Office, 801 I Street, Suite 140, Sacramento, CA 95814–2536; fax to 916–414–2439; or email at *tmichel@usbr.gov.*

The scoping meetings will be held at the following locations:

1. West Sacramento—1075 West Capitol Ave., West Sacramento, CA 95691, Galleria and Community Center in the Community Room.

2. Woodland—2001 East St., Woodland, CA 95776, Woodland Community and Senior Center in Banquet Rooms 2 & 3.

FOR FURTHER INFORMATION CONTACT: Traci Michel, 916–414–2420, fax 916–414–2439, or email *tmichel@usbr.gov;* or Megan Sheely, FESSRO, Fish Passage Improvement Program, California Department of Water Resources, 901 P Street, Room 411A, Sacramento, CA 95814, 916–651–9623, fax 916–376–9688, or email *Megan.Sheely@water.ca.gov.*

SUPPLEMENTARY INFORMATION:

I. Agencies Involved

The Bureau of Reclamation (Reclamation) is the lead Federal agency, and the California Department of Water Resources (DWR) is the lead state agency. Reclamation will invite the following agencies, and others, as

appropriate, to participate as cooperating agencies for the preparation of the EIS/EIR in accordance with the National Environmental Policy Act (NEPA):

- National Marine Fisheries Service;
- U.S. Fish and Wildlife Service;
- U.S. Army Corps of Engineers;
- U.S. Environmental Protection Agency;
- Natural Resources Conservation Service;
- California Department of Fish and Wildlife;
- Central Valley Flood Protection Board;
- Delta Stewardship Council;
- Delta Conservancy;
- Delta Protection Commission;
- Yolo County;
- State and Federal Contractors Water Agency;
- Sacramento Area Flood Control Agency; and
- Local agencies (e.g., potentially affected cities, water districts and reclamation districts).

DWR has identified several agencies that may be trustee or responsible agencies in accordance with CEQA.

II. Why We Are Taking This Action

The National Marine Fisheries Service's 2009 Biological Opinion and Conference Opinion on the Long-term Operation of the Central Valley Project and State Water Project (NMFS BO) concluded that, as proposed, the Central Valley Project and the State Water Project operations were likely to jeopardize the continued existence of four anadromous species listed under the federal Endangered Species Act: Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha),* California Central Valley steelhead (*Oncorhynchus mykiss*), and the Southern Distinct Population Segment of North American green sturgeon *(Acipenser medirostris*). The NMFS BO identifies actions within the Reasonable and Prudent Alternative (RPA) that would allow continuing Central Valley Project and State Water Project operations to avoid jeopardy of these species.

RPA actions I.6.1 and I.7 address salmonid habitat restoration actions in the lower Sacramento River basin and fish passage actions in the Yolo Bypass, respectively. The Yolo Bypass, which currently experiences at least some flooding in approximately 80% of years, still retains many characteristics of the historic floodplain habitat that are favorable to various fish species. The primary purpose of the Yolo Bypass is flood damage reduction, but other functions include agriculture and wildlife habitat. Major California restoration planning efforts over several decades (e.g., CALFED, the Bay Delta Conservation Plan) have focused on the Yolo Bypass as a prime area of the lower Sacramento River basin for enhancement of seasonal floodplain fisheries rearing habitat.

The two RPA actions being addressed in this EIS/EIR include:

- RPA Action I.6.1: Restoration of Floodplain Rearing Habitat, through the increase of seasonal inundation within the lower Sacramento River basin; and
- RPA Action I.7: Reduce Migratory Delays and Loss of Salmon, Steelhead, and Sturgeon, through the modification of Fremont Weir and other structures of the Bypass.

III. Purpose and Need for Action

Significant modifications have been made to the historic floodplain of California's Central Valley for water supply and flood damage reduction purposes. The resulting losses of fisheries rearing habitat, migration corridors, and food web production for fish have hindered native fish species that rely on floodplain habitat during part or all of their life history.

The purpose of the action is to create more suitable conditions for fish in the Yolo Bypass and/or lower Sacramento River basin by implementing RPA actions I.6.1 and I.7, as described in the NMFS BO and the 2012 Yolo Bypass Salmonid Habitat Restoration and Fish Passage Implementation Plan. The purpose of RPA action I.6.1 is to restore floodplain fisheries rearing habitat for juvenile Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and Central Valley steelhead. This action could also improve conditions for species of concern, including Sacramento splittail and Central Valley fall-run Chinook salmon. Specific biological purposes related to implementing RPA action I.6.1 include increasing access to, and acreage of, seasonal floodplain fisheries rearing habitat; reducing stranding and the presence of migration barriers; increasing aquatic primary and secondary biotic production to provide food through an ecosystem approach; and providing access to seasonal habitat through volitional entry.

The purpose of RPA action I.7 is to reduce migratory delays and loss of fish at Fremont Weir and other structures in the Yolo Bypass. Specific biological purposes related to RPA action I.7 include improving connectivity within the Yolo Bypass for passage of juvenile salmonids and green sturgeon and improving connectivity between the Sacramento River and the Yolo Bypass to provide passage for adult Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, California Central Valley steelhead, and the Southern Distinct Population Segment of green sturgeon.

IV. Project Area

The Yolo Bypass is located in Yolo County, California, within the Sacramento Valley region. The Yolo Bypass spans 25 square miles between the cities of Sacramento and Woodland, south to the City of Rio Vista. The Yolo Bypass is a flood basin, connected by a system of weirs (Fremont, Lisbon, and Sacramento) to the Sacramento River, and various local creeks. Action alternatives may include restoration actions within the lower Sacramento River basin, which also covers parts of Sacramento and San Joaquin counties in California.

V. Alternatives To Be Considered

Both physical and operational modifications will be included in efforts to increase seasonal inundation and improve fish passage. RPA action I.6.1 includes floodplain fisheries rearing habitat restoration in the lower Sacramento River basin. Several physical and operational modifications within the project area may be a part of efforts to increase seasonal inundation. Modifications could include notching Fremont Weir and/or the Sacramento Weir to allow flows to enter the Yolo Bypass during a range of flows in the Sacramento River, improving fish passage at Lisbon Weir, grading or altering channels to improve connectivity, changing operations to increase the frequency and duration of inundation, and identifying and addressing potential areas that could strand fish. Alternatives may include floodplain fisheries rearing habitat restoration actions at other sites in the lower Sacramento River basin.

RPA action I.7 includes changes to improve fish passage within the Yolo Bypass. Elements of the proposed project could include replacing road crossings that impair fish passage, constructing fish passage facilities at Fremont Weir, connecting isolated pools to main channels, improving fish passage at Lisbon Weir, and addressing other obstacles to fish passage.

VI. Statutory Authority

NEPA [42 U.S.C. 4321 *et seq.*] requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the

human environment. CEQA (California Public Resources Code [CCR], Section 15222 [State CEQA Guidelines]) requires State agencies complete a similar review of how their actions could affect the environment. As required by NEPA and CEQA, Reclamation and DWR will analyze in the EIS/EIR the potential direct, indirect, and cumulative environmental effects that may result from implementation of the proposed action and alternatives, which may include, but are not limited to, the following areas of potential impact:

a. Water resources, including groundwater;
b. Flood control;
c. Land use, including agricultural resources;
d. Socioeconomics;
e. Environmental justice;
f. Biological resources, including fish, wildlife, and plant species;
g. Cultural resources;
h. Hydrology/water quality;
i. Air quality;
j. Power/energy and natural resources;
k. Public services and utilities;
l. Hazards and hazardous materials;
m. Geology, soils, and mineral resources;
n. Visual, scenic, or aesthetic resources;
o. Global climate change/greenhouse gas emissions;
p. Indian trust assets;
q. Noise;
r. Population and housing;
s. Transportation; and
t. Recreation.

VII. Request for Comments

The purposes of this notice are:

- To advise other agencies, potentially affected local governments, tribes, and the public of our intent to prepare an EIS/EIR;
- To obtain suggestions and information from other agencies, interested parties, and the public on the scope of alternatives and issues to be addressed in the EIS/EIR; and
- To identify important issues raised by the public related to the development and implementation of the proposed action.

We invite written comments from interested parties to ensure that the full range of alternatives and issues related to the development of the proposed action are identified. Written comments may be submitted by mail, electronic mail, facsimile transmission or in person (see **ADDRESSES** above). Comments and participation in the scoping process are encouraged.

VIII. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

IX. How To Request Reasonable Accommodation

If special assistance is required at one of the scoping meetings, please contact Traci Michel at the information provided above, or TDD 916–978–5808, at least five working days before the meetings. Information regarding this proposed action is available in alternative formats upon request.

Dated: February 22, 2013.

Anastasia T. Leigh,

Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. 2013–04892 Filed 3–1–13; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation and Liability Act

On February 26, 2013, the Department of Justice lodged proposed *de minimis* consent decrees with the United States District Court for the Eastern District of Missouri in the lawsuit entitled *United States* v. *Amsted Industries, Inc. et al.,* Civil Action No. 1:13–cv–00040.

In this action the United States is seeking response costs pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607, for costs incurred in response to releases of hazardous substances at the Missouri Electric Works Superfund Site (''the Site''), in Cape Girardeau, Missouri. The proposed consent decrees will resolve the United States' claims against the sixteen *de minimis* defendants (Amsted Industries, Inc., Atlas Alchem Plastics, Inc., Chase Resorts, Inc., EcReCon, Inc., Electric Plant Board of the City of Mayfield, KY, Exxon Mobil Corp., Independent Electric Machinery Co., City of Jacksonville, IL, Joliet Equipment Co., Mount Carmel Public Utility, City of Mount Vernon, MO, City of New Madrid, MO, Pet Inc., City of Seymour, MO, Tipmont Rural Electric Membership Corp., and City of West Plains, MO) under Section 107 of CERCLA, 42 U.S.C. 9607, at the Site. Under the terms of the proposed consent decree, all sixteen defendants will make cash payments that collectively total $1.12 million to the United States. In return, the United States will grant all defendants covenants not to sue under Sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the consent decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Amsted Industries, Inc. et al.,* D.J. Ref. No. 90–11–2–614/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decrees may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decrees upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–04856 Filed 3–1–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0042]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Statement of Process—Marking of Plastic Explosives for the Purpose of Detection

ACTION: 60-Day notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 3, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Anita Scheddel, Explosives Industry Programs Branch at *eipb-informationcollection@atf.gov*.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Statement of Process—Marking of Plastic Explosives for the Purpose of Detection.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Other: None.

Need for Collection: The information contained in the statement of process is required to ensure compliance with the provisions of Public Law 104–132. This information will be used to ensure that plastic explosives contain a detection agent as required by law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 8 respondents will complete the required information in 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 16 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: February 27, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–04871 Filed 3–1–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0055]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Identification of Explosive Materials

ACTION: 60-Day notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 3, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Anita Scheddel, Explosives Industry Programs Branch at *eipb-informationcollection@atf.gov*.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Identification of Explosive Materials.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Other: None.

Need for Collection:

The regulations of 27 CFR 555.109 require that manufacturers of explosive

materials place marks of identification on the materials manufactured. Marking of explosives enables law enforcement entities to more effectively trace explosives from the manufacturer through the distribution chain to the end purchaser. This process is used as a tool in criminal enforcement activities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 2,184 respondents will respond to this information collection. Estimated time for a respondent to respond is none. Manufacturers are required to place markings on explosives, therefore, the burden hours are considered usual and customary. 5 CFR 1320.3(b)(2) states, there is no burden when the collection of information is usual and customary.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual total burden hours associated with this collection is 1 hour.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: February 27, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–04872 Filed 3–1–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0068]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Police Check Inquiry and Pre-Screening Qualifications Certification

ACTION: 60-Day notice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 3, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Renee Reid, Chief Personnel Security Branch at *Renee.Reid@atf.gov.*

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of Information Collection

(1) *Type of Information Collection:* Revision of an existing collection of information.

(2) *Title of the Form/Collection:* Police Check Inquiry and Pre-Screening Qualifications Certification.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 8620.42 and ATF F 8620.62; Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households Other: Business or Other For-Profit.

Need for Collection

The information requested is necessary to determine if individuals (potential contractors, task force officers, and volunteers) interested in providing services to ATF meet DOJ and ATF basic qualification requirements to be considered for access to ATF information, information technology systems, and/or facilities. These agency specific requirements include, but are not limited to, residency, citizenship, drug use, financial history, firearms/explosives licensing, criminal history, and conduct qualifications. The revision to this collection is adding a new form ATF Form 8620.62 for individuals that require unescorted access to ATF information and facilities, and minor clarifying information on ATF Form 8620.42.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1000 respondents will take 5 minutes to complete ATF F 8620.42 and 1500 respondents will take 7 minutes to complete ATF F 8620.62.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 258 annual total burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: February 27, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–04873 Filed 3–1–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications for Strategies Targeting Characteristics Common to Female Ex-Offenders

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA). Funding Opportunity Number: SGA/DFA PY–12–04.

SUMMARY: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces the availability of $12 million in grant funds authorized by the Workforce Investment Act to serve adult and youth ex-offenders. Services for ex-offenders will be targeted to females, but must also be open to eligible male ex-offenders.

Strategies Targeting Characteristics Common to Female Ex-Offenders grants

will be awarded through a competitive process. Under this solicitation, DOL expects to award eight grants up to $1.5 million each to cover a 37-month period of performance. These grants will include an integrated strategy of recruitment and assessment, empowerment and self-development, case management, education and training, workforce development, follow-up, and state/local partnerships.

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 17, 2013. Applications must be received no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Denise Roach, 200 Constitution Avenue NW., Room N–4716, Washington, DC 20210; Telephone: 202–693–3820.

Signed February 26, 2013, in Washington, DC.

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

[FR Doc. 2013–04895 Filed 3–1–13; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0054]

Revocation of Permanent Variances

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of revocation.

SUMMARY: With this notice, OSHA is revoking twenty-four (24) obsolete variances. Between 1975 and 1977, OSHA granted permanent variances to 24 companies engaged in the construction of cylindrical steel tanks. The variances specified several conditions that served as an alternative means of compliance to the falling-object-protection and fall-protection requirements of the standard governing general requirements for scaffolds in effect during this period. In 1996, OSHA revised its scaffolds standards for construction to include provisions that essentially duplicated the conditions specified by these variances. Therefore, OSHA believes the alternative means of compliance granted by the variances is no longer necessary and is revoking the variances.

Based on comments received in response to a December 19, 2011, notice proposing to revoke these variances (76 FR 78698), on August 7, 2012, OSHA published a notice in the **Federal Register** correcting several cross references in OSHA's scaffolds standards for construction (77 FR 46948). Today's notice revoking the variances takes into consideration these newly corrected cross references.

DATES: The effective date of the revocation of the permanent variances is March 4, 2013.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries. Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999.

Technical information. Stefan Weisz, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2110; fax: (202) 693–1644.

Copies of this Federal Register notice. Electronic copies of this notice are available at *http://www.regulations.gov.* Electronic copies of this notice, as well as news releases and other relevant information, are available on OSHA's Web site at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

OSHA's general requirements for scaffolds used in the construction industry are set forth at 29 CFR 1926.451. OSHA adopted this standard from Section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3704) under Section 6(a) of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 651, 655) in 1971 (see 36 FR 7340). Paragraphs (a)(4) and (a)(5) of § 1926.451 required employers to erect, on scaffolds more than 10 feet above the ground or floor, toeboards having a minimum height of four inches on all open sides and open ends of the platforms. These requirements prevented tools and other equipment from falling from the scaffold and striking employees below. To ensure the structural integrity of scaffolds, § 1926.451(a)(5) required employers to erect guardrail supports at intervals not to exceed eight feet, while Table L–3 in § 1926.451(a)(10) set maximum permissible spans for 2-inch x 10-inch (or wider) planks.

Between 1975 and 1977, OSHA granted 24 permanent variances from the falling-object-protection and fall-protection requirements in § 1926.451(a)(4), (a)(5), and (a)(10) to employers using scaffolds in the construction of cylindrical steel tanks. Construction of these tanks involves attaching curved steel plates together to form the outer surface of a tank. After attaching a horizontal layer (ring) of steel plates around the circumference of the existing shell, employees raise the scaffolds to attach the next ring of steel plates onto the existing shell. Steel mills typically fabricate the steel plates to a standard length. After delivery of the steel plates to a worksite, and prior to attaching the plates to form the outer surface of a tank, employers attach scaffolding and guardrail supports to brackets welded onto the steel plates. The standard length and radius of the steel plates make it difficult for employers to properly space scaffolding and guardrail supports as specified by § 1926.451. To address this problem, employers developed special procedures and methods, including special scaffolding that is more mobile, flexible, and holds fewer workers than conventional scaffolding.

A. Alternative Means of Compliance Specified in the 24 Variances

The variances OSHA granted to the 24 employers did not require scaffolds used in the construction of cylindrical steel tanks to have the toeboards required by § 1926.451(a)(4) and (a)(5). Instead, the variances specified that the employers must implement the following conditions as an alternative means of compliance: (1) Ensure that employees keep loose tools and equipment in secure, well-designed containers; and (2) use ropes to demarcate the area below the scaffold and post clearly visible signs indicating ''overhead work above.'' The variances also stated that no more than three employees could work on a 10½-foot plank at any time.

Since the contour of the steel plates on a tank's outer surface is curved, and the adjacent edge of the scaffold is straight, there is an open space between them. As a result, the variances provided for the installation of a taut wire rope between the innermost edge of the scaffold and the curved plate of a tank's outer surface to serve as a safety line in place of a guardrail assembly. In the event the open space on either side of the rope exceeded 12 inches, the

employer had to install a second wire rope or guardrail. Also, the variances set 10½ feet as the maximum distance between brackets used to attach scaffolding and guardrail supports and stated that employers had to weld such brackets to the steel plates.

Additionally, the variances required employers to use scaffold planks of rough full-dimensioned 2-inch x 12-inch x 12-foot Douglas Fir or Southern Yellow Pine of Select Structural Grade. The Douglas Fir planking had to have at least a 1,900 fiber stress and 1,900,000 modulus of elasticity, while the Yellow Pine planking had to have at least 2,500 fiber stress and 2,000,000 modulus of elasticity. Employers had to secure all planking from movement or overlap it in accordance with § 1926.451(a)(12). The variances also required that employers construct guardrails of taut wire rope and support the guardrails using angle irons attached to brackets welded to the steel plates. These guardrails had to be at least equivalent in strength, stability, and height to the 2-inch x 4-inch x 8-foot wooden rails addressed in § 1926.451(a)(5). Finally, the variances required employers to space guardrail supports at intervals no greater than 10½ feet apart.

B. OSHA's Current Standard

On August 30, 1996, OSHA issued a final rule revising its construction safety standards regulating the design, construction, and use of scaffolds (61 FR 46026). In the preamble to the final rule, OSHA stated that it was updating its scaffolds standards in construction and, when possible, establishing performance-oriented criteria to protect employees from scaffold-related hazards such as falls, falling objects, structural instability, electrocution, and overloading. OSHA also explained that it was not issuing specific requirements for the tank-building industry because the Agency believed it addressed adequately the requirements for tank scaffolds under the general provisions of the final rule (see 61 FR 46033). In this regard, the final rule revised the requirements in § 1926.451(a)(4), (a)(5), and (a)(10). These revisions are set forth in § 1926.451, as well as non-mandatory Appendix A of 29 CFR part 1926, subpart L.

OSHA's current standard at § 1926.451(h) addresses the protection of employees from scaffold-related falling-object hazards. Section 1926.451(h)(1) requires employers to ensure that employees working on scaffolds wear hardhats and to protect these employees from falling hand tools, debris, and other small objects. Section 1926.451(h)(2) sets forth several options for employers to use to prevent tools, materials, or equipment from falling from a scaffold and striking employees below. Paragraphs (h)(2)(i), (ii), (iii), (iv), and (v) of § 1926.451 specify these options, respectively, as follows: (1) Using barricades on lower levels to exclude employees from areas where falling objects might land; (2) erecting toeboards along the edge of platforms for a distance sufficient to protect workers below, when the platforms are more than 10 feet above lower levels; (3) erecting paneling or screening when tools or other materials piled on the platform reach a height higher than the top edge of a toeboard; (4) installing a guardrail system designed so that the openings will prevent the passage of falling objects; and (5) installing debris nets, catch platforms, or canopies to protect workers below scaffolds from falling objects.

Appendix A to subpart L addresses scaffold specifications and provides non-mandatory guidance to assist employers in complying with the requirements in subpart L. Paragraph (z) of this appendix provides guidance regarding the use of tank builders' scaffolds. In the preamble to the 1996 final rule, OSHA noted that the introductory text of the appendix clearly indicates that employers following the appendix will be in compliance with the requirements of the standard that pertain to scaffolds used in the construction of cylindrical tanks. However, OSHA stated further that employers choosing not to follow the appendix still must comply with applicable requirements in § 1926.451, particularly paragraphs (a) and (f) (see 61 FR 46033).

II. Comments on the Proposed Revocation of Variances

OSHA published a proposed revocation of the permanent variances in the **Federal Register** on December 19, 2011 (76 FR 78698). The notice invited interested parties, including the 24 companies engaged in the construction of cylindrical steel tanks granted the permanent variances, and affected employees, to submit written data, views, and arguments regarding the proposed revocation. The notice also included a table comparing the conditions specified in the 24 variances with the analogous paragraphs in OSHA's current § 1926451 and Appendix A to 29 CFR part 1926, subpart L. In addition, the **Federal Register** notice stated that interested parties could request a hearing on the proposed revocation of the permanent variances. OSHA did not receive any requests for a hearing.

OSHA received one comment on the proposed revocation. Mr. Donald Lowe of Tampa Tank, Inc., submitted a comment requesting clarification of the table comparing the variance conditions with OSHA's current standard at § 1926.451 and Appendix A to 29 CFR part 1926, subpart L (see Document ID No. OSHA–2011–0054–0001 [1]). The comment indicated that paragraphs (z)(3) and (z)(5) in Appendix A incorrectly refer to guardrail requirements in § 1926.451(e)(4).

III. OSHA's Corrected Standard

OSHA published a correction notice addressing its standards on respiratory protection, mechanical power presses, and scaffold specifications in the **Federal Register** on August 7, 2012 (77 FR 46948). This notice included correcting a cross reference made in two paragraphs in Appendix A to 29 CFR part 1926, subpart L, which specify requirements for tank builders' scaffolds. Specifically, when OSHA published its 1996 final rule addressing scaffolds standards in construction, paragraphs (z)(3) and (z)(5) in Appendix A referred to guardrail requirements in § 1926.451(e)(4). However, the requirements at § 1926.451(e)(4) contain provisions for stair towers; these provisions are not applicable to tank builders' scaffolds. The reference cited in paragraphs (z)(3) and (z)(5) should be to paragraph § 1926.451(g)(4), which addresses in part guardrail systems for tank builders' scaffolds. Accordingly, the August 7, 2012, **Federal Register** notice corrected paragraphs (z)(3) and (z)(5) of Appendix A to refer to § 1926.451(g)(4).

Because of the August 7, 2011, correction, it is important to state exactly what tank builders must do to be in compliance with Appendix A. Paragraph (z)(1) of Appendix A states that the maximum distance between the brackets used to attach the scaffolding and guardrail supports shall be no more than 10½ feet, while paragraph (z)(2) provides that no more than three employees shall occupy a 10½-foot scaffold plank at any time. Paragraph (z)(3) requires that employers install a taut wire or synthetic rope supported on the scaffold brackets at the scaffold-plank level between the innermost edge of the scaffold platform and the curved plates of the tank's outer surface; this wire or rope serves as a safety line in place of an inner guardrail assembly when the space between the scaffold platform and the tank exceeds 12 inches. If the space on either side of the

[1] In Docket No. OSHA–2011–0054 for this revocation action.

wire or rope exceeds 12 inches, employers must install a second wire or synthetic rope in an appropriate location, or install guardrails in accordance with § 1926.451(g)(4), to reduce the open space to less than 12 inches.

Additionally, paragraph (z)(4) provides that employers must use scaffold planks of rough full-dimensioned 2-inch x 12-inch Douglas Fir or Southern Yellow Pine of Select Structural Grade. Douglas Fir planks must have a fiber stress of at least 1,900 lb/m^2 and a modulus of elasticity of at least 1,900,000 lb/m^2, while Yellow Pine planks must have a fiber stress of at least 2,500 lb/m^2 and a modulus of elasticity of at least 2,000,000 lb/m^2. Finally, paragraph (z)(5) states that employers must construct guardrails of a taut wire or synthetic rope, and support these guardrails using angle irons attached to brackets welded to the steel plates. These guardrails must comply with § 1926.451(g)(4), and employers must space the guardrail supports at intervals no greater than 10½ feet apart.

IV. Other Corrections

Condition (8) or (h) from the comparison table in the December 19, 2011, **Federal Register** notice proposing to revoke the variances included a reference to 29 CFR 1926.451(a)(15). This condition states: ''Guardrails shall be constructed of taut wire rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall be at least of equivalent strength, stability and height as those required for the 8 foot span of 2″ x 4″ wood rails by 29 CFR 1926.451(a)(15). Guardrail supports shall be located at no greater than 10′ 6″ intervals.''

OSHA notes that condition (8) from most of the tank-builder variances granted between 1975 and 1977 reference OSHA's former scaffolding standard at § 1926.451(a)(5). The one exception is a variance granted to the Baker Tank Company on August 9, 1977 (42 FR 40269), which references § 1926.451(a)(15). Former § 1926.451(a)(15) states, ''The poles, legs, or uprights of scaffolds shall be plumb, and securely and rigidly braced to prevent swaying and displacement,'' while former § 1926.451(a)(5) states, ''Guardrails shall be 2 x 4 inches or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be a minimum of 4 inches in height.''

The reference to § 1926.451(a)(15) in condition (8) of the 1977 Baker Tank Company variance is incorrect. OSHA used the conditions from the 1977 Baker Tank Company variance to develop the comparison table used in its December 19, 2011, variance-revocation notice. As a result, condition (8) or (h) of that table incorporated the incorrect reference (to § 1926.451(a)(15)). Accordingly, OSHA modified variance condition (8) or (h) in the comparison table below to reference § 1926.451(a)(5) instead of § 1926.451(a)(15).[2]

The following table compares the conditions specified in the 24 variances with the analogous paragraphs of the current corrected provisions in § 1926.451 and Appendix A of 29 CFR part 1926, subpart L.

Variance condition	Provision in current § 1926.451 and appendix A of 29 CFR Part 1926, subpart L
Condition (1) or (a): The applicants' loose tools and equipment shall be kept in well-designed tool containers. This does not include fitup bars, key plates, key channels, or long handled mauls which may be placed on the scaffold plank during the time they are required for work. The loose tool containers shall be secured to prevent their upset or dislodgment from the scaffold area.	*1926.451(h)(1):* In addition to wearing hardhats, each employee on a scaffold shall be provided with additional protection from falling hand tools, debris, and other small objects through the installation of toeboards, screens, or guardrail systems, or through the erection of debris nets, catch platforms, or canopy structures that contain or deflect the falling objects. When the falling objects are too large, heavy or massive to be contained or deflected by any of the above-listed measures, the employer shall place such potential falling objects away from the edge of the surface from which they could fall and shall secure those materials as necessary to prevent their falling.
Condition (2) or (b): Areas beneath and far enough away from the base of the scaffold to contain anything that falls from above shall be roped off and posted with clearly visible signs stating: ''Danger Overhead Work''.	*1926.451(h)(2)(i):* The area below the scaffold to which objects can fall shall be barricaded, and employees shall not be permitted to enter the hazard area.
Condition (3) or (c): The space between the innermost edge of the scaffold platform and the curved plate structure of the tank shell shall not exceed 12″ without protective measures. A taut wire rope supported on scaffold brackets at plank level may be used to divide any space exceeding 12″ in lieu of using a guardrail or tie-off system.	*Appendix A, Paragraph (z)(3):* A taut wire or synthetic rope supported on the scaffold brackets shall be installed at the scaffold plank level between the innermost edge of the scaffold platform and the curved plate structure of the tank shell to serve as a safety line in lieu of an inner guardrail assembly where the space between the scaffold platform and the tank exceeds 12 inches (30.48 cm). In the event the open space on either side of the rope exceeds 12 inches (30.48 cm), a second wire or synthetic rope appropriately placed, or guardrails in accordance with 1926.451(g)(4), shall be installed in order to reduce that open space to less than 12 inches (30.48 cm).
Condition (4) or (d): Not more than three employees shall be working on a 10′ 6″ span of scaffold planking at any time.	*Appendix A, Paragraph (z)(2):* Not more than three employees shall occupy a 10 feet 6 inch span of scaffold planking at any time.
Condition (5) or (e): The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be 10′ 6″. These brackets shall be welded to the steel plates.	*Appendix A, Paragraph (z)(1):* The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be no more than 10 feet 6 inches.

[2] The comparison table below also corrects the reference to § 1926.451(e)(4) to § 1926.451(g)(4), as discussed in the previous section of this notice.

Variance condition	Provision in current § 1926.451 and appendix A of 29 CFR Part 1926, subpart L
Condition (6) or (f): Scaffold planks or rough full-dimensioned 2″ x 12″ x 12′ Douglas Fir or equivalent planking, shall be used. The Douglas Fir shall have at least a 1,900 fiber stress and 1,900,000 modulus of elasticity. Three planks with full thickness 2″ x 10″ x 12′ dimensions may be used in lieu of two 2″ x 12″ x 12′ planks provided that they are clamped or bonded together at the midpoint of the span in order to spread the weight of the employees.	*Appendix A, Paragraph (z)(4):* Scaffold planks of rough full-dimensioned 2-inch (5.1 cm) x 12-inch (30.5 cm) Douglas Fir or Southern Yellow Pine of Select Structural Grade shall be used. Douglas Fir planks shall have a fiber stress of at least 1900 lb/in^2 (130,929 n/cm^2) and a modulus of elasticity of at least 1,900,000 lb/in^2 (130,929,000 n/cm^2), while Yellow Pine planks shall have a fiber stress of at least 2500 lb/in^2 (172,275 n/cm^2 and a modulus of elasticity of at least 2,000,000 lb/in^2) (137,820,000 n/cm^2).
Condition (7) or (g): All planking shall be secured from movement or overlapped in accordance with 1926.451(a)(12).	*1926.451(f)(15)(ii):* The platform units shall be secured to the scaffold to prevent their movement;
Condition (8) or (h): Guardrails shall be constructed of taut wire rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall be at least of equivalent strength, stability and height as those required for the 8 foot span of 2″ x 4″ wood rails by 29 CFR 1926.451(a)(5). Guardrail supports shall be located at no greater than 10′ 6″ intervals.	*Appendix A, Paragraph (z)(5):* Guardrails shall be constructed of a taut wire or synthetic rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall comply with § 1926.451(g)(4). Guardrail supports shall be located at no greater than 10 feet 6 inch intervals.

Based on the comparisons in the table contrasting the variance conditions with the analogous paragraphs in the current standard for scaffolds in construction, OSHA finds that current § 1926.451 and corrected Appendix A to 29 CFR part 1926, subpart L, which replaced the standards from which the employers received the variances, substantially duplicate the conditions specified by these variances, and that the corrected standards and the variances impose equivalent compliance burdens on employers. Accordingly, current § 1926.451 and its associated appendix provide employees with protection that is at least equal to the protection afforded to them by the conditions specified by the variances.

V. Findings and Conclusions

Based on its review of the record, including the corrections to the references in Appendix A to 29 CFR part 1926, subpart L, OSHA finds that current § 1926.451 and its associated appendix provide employees with protection that is at least equal to the protection afforded to them by the conditions specified by the variances described herein. Therefore, OSHA concludes that these variances are unnecessary, and is revoking the variances and requiring employers to comply instead with the appropriate provisions of § 1926.451 and Appendix A to 29 CFR part 1926, subpart L.

The following table provides information about the variances revoked by this notice. Interested parties may refer to the **Federal Register** cite in the table to obtain detailed information about the variances.

Name of employer (company) *	Variance No.	Date granted	**Federal Register** Cite	OSHA Standards Affected **
American Bridge Division, United States Steel Corp.	V–74–44, V–74–57	05/06/75	40 FR 19715	1926.451(a)(4), (a)(5), and (a)(10).
Baker Tank Company	V–77–7, V–77–1	08/09/77	42 FR 40269	1926.451(a)(4), (a)(5), and (a)(10).
Bethlehem Steel Corporation, Fabricated Steel Construction Division.	V–74–44, V–74–57	05/06/75	40 FR 19715	1926.451(a)(4), (a)(5), and (a)(10).
Brown Minneapolis Tank and Fabricating Co.	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Caldwell Tanks, Inc	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Chattanooga Boiler & Tank Co	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Chicago Bridge & Iron Co	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Edwards Tank Erection, Inc	V–76–4, V–76–5	09/24/76	41 FR 41976	1926.451(a)(4), (a)(5), and (a)(10).
Fisher Tank and Welding Co	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
General American Transportation Corporation.	V–75–35	04/27/76	41 FR 17642	1926.451(a)(4), (a)(5), and (a)(10).
Gorbett Brothers, Inc	V–75–35	04/27/76	41 FR 17642	1926.451(a)(4), (a)(5), and (a)(10).
Graver Tank & Manufacturing Co	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Marathon Steel Co. (formerly Allison Steel Manufacturing Co.).	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Newport News Industrial Corporation of Ohio.	V–76–4, V–76–5	09/24/76	41 FR 41976	1926.451(a)(4), (a)(5), and (a)(10).
Nooter Corp	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Pittsburgh-Des Moines Steel Co	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Prairie Tank and Construction Company	V–75–35	04/27/76	41 FR 17642	1926.451(a)(4), (5), and (10).
PSF Industries, Inc	V–74–44, V–74–57	05/06/75	40 FR 19715	1926.451(a)(4), (a)(5), and (a)(10).
Richmond Engineering Company, Inc	V–77–7, V–77–1	08/09/77	42 FR 40269	1926.451(a)(4), (a)(5), and (a)(10).
Tank Services, Inc	V–75–35	04/27/76	41 FR 17642	1926.451(a)(4), (a)(5), and (a)(10).
The Bishopric Products, Co	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Universal Tank & Iron Works	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Western Petro-Chem. Services, Inc	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).
Wyatt, Division U.S. Industries	V–73–31, V–74–30	04/04/75	40 FR 15139	1926.451(a)(4), (a)(5), and (a)(10).

* As listed on the original variance.
** From OSHA's original scaffold standard issued in 1971.

VI. State-Plan States

Twenty-two states administer OSHA-approved occupational safety and health programs, or State Plans, that have jurisdiction over private-sector employers within the state. These states are Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. OSHA granted the 24 variances at issue under Federal authority with nationwide applicability, without reference to the State Plans. About the same time, the State-Plan states began to assume responsibility for most occupational safety and health activities in the state, including enforcement, standards development, and granting variances. Accordingly, each State-Plan state adopted state scaffolding standards that are identical to, or at least as effective as, the current Federal standard at 29 CFR 1926.451. As OSHA is revoking the variances described herein, affected employers operating in one or more of these State-Plan states must determine if the applicable state standards are identical to, or different from, the current OSHA standard. If a State-Plan state standard differs from the OSHA standard, these employers must either meet any state-specific requirements in the state standard or apply directly to the applicable State Plan Office for a variance from the state's standard. Information on State Plans is available on OSHA's Web site at *http://www.osha.gov/dcsp/osp/index.html,* and includes links to each state's Web site, as well as information on state-specific standards.

VII. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC, authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 1–2012 (76 FR 3912), and 29 CFR part 1905.

Signed at Washington, DC, on February 19, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–04825 Filed 3–1–13; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0045]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission 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 biweekly notice includes all notices of amendments issued, or proposed to be issued from February 7, 2013, to February 20, 2013. The last biweekly notice was published on February 19, 2013 (78 FR 11688).

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID <NRC–20YY–XXXX>. You may submit comments by the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID <NRC–20YY–XXXX>. 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–20YY–XXXX> when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID <NRC–20YY–XXXX>.
- *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*. Documents may be viewed in ADAMS by performing a search on the document date and docket number.
- *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–20YY–XXXX> 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 in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and the NRC does not 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 in their comment submissions that they do not want to be publicly disclosed. Your request should state that the NRC will not edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

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 Title 10 of the *Code of Federal Regulations* (10 CFR), Section 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 ''Rules of Practice for Domestic Licensing Proceedings'' 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. NRC regulations are accessible electronically from the NRC Library on the NRC 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 by the above date, 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 entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify 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, 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 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 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 information (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 agency'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 Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC 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 NRC guidance available on the NRC 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 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 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. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. 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.

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendment request: December 12, 2012.

Description of amendment request: The amendments would change the Technical Specifications (TSs) by replacing the current limits on primary coolant gross specific activity with limits on primary coolant noble gas activity. The noble gas activity would be based on DOSE EQUIVALENT XE–133 and would take into account only the noble gas activity in the primary coolant. The changes are consistent with NRC-approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–490, Revision 0, ''Deletion of E-Bar Definition and Revision to RCS [Reactor Coolant System] Specific Activity Technical Specifications,'' with deviations.

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. The license concluded that the no significant hazards consideration determination published in the **Federal Register** on March 19, 2007 (72 FR 12838), is applicable, and is presented below:

1. The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

Response: Reactor coolant specific activity is not an initiator for any accident previously evaluated. The Completion Time when primary coolant gross activity is not within limit is not an initiator for any accident previously evaluated. The current variable limit on primary coolant iodine concentration is not an initiator to any accident previously evaluated. As a result, the proposed change does not significantly increase the probability of an accident. The proposed change will limit primary coolant noble gases to concentrations consistent with the accident analyses. The proposed change to the Completion Time has no impact on the consequences of any design basis accident since the consequences of an accident during the extended Completion Time are the same as the consequences of an accident during the Completion Time. As a result, the consequences of any accident previously evaluated are not significantly increased.

2. The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated

Response: The proposed change in specific activity limits does not alter any physical part of the plant nor does it affect any plant operating parameter. The change does not create the potential for a new or different kind of accident from any previously calculated.

3. The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

Response: The proposed change revises the limits on noble gase [sic] radioactivity in the primary coolant. The proposed change is consistent with the assumptions in the safety analyses and will ensure the monitored values protect the initial assumptions in the safety analyses.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Michael G. Green, Senior Regulatory Counsel, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 8695, Phoenix, Arizona 85072–2034.

NRC Branch Chief: Michael T. Markley.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendment request: December 26, 2012.

Description of amendment request: The amendments would adopt Technical Specifications Task Force (TSTF) Traveler TSTF–500, Revision 2, ''DC Electrical Rewrite—Update to TSTF–360,'' with one variation. The amendments would revise the TS requirements related to direct current (DC) electrical systems in TS Limiting Condition for Operation (LCO) 3.8.4, ''DC Sources—Operating,'' LCO 3.8.5, ''DC Sources—Shutdown,'' and LCO 3.8.6, ''Battery Parameters.'' In addition, new TS 5.5.19, ''Battery Monitoring and Maintenance Program,'' is being proposed for Section 5.5, ''Administrative Controls—Programs and Manuals.''

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 any accident previously evaluated?

Response: No.

The proposed changes restructure the Technical Specifications (TS) for the direct current (DC) electrical power system and are consistent with TSTF–500, Revision 2. The proposed changes modify TS Actions relating to battery and battery charger inoperability. The DC electrical power system, including associated battery chargers, is not an initiator of any accident sequence analyzed in the Updated Final Safety Analysis Report (UFSAR). Rather, the DC electrical power system supports equipment used to mitigate accidents. The proposed changes to restructure TS and change surveillances for batteries and chargers to incorporate the updates included in TSTF–500, Revision 2, will maintain the same level of equipment performance required for mitigating accidents assumed in the UFSAR. Operation in accordance with the proposed TS would ensure that the DC electrical power system is capable of performing its specified safety function as described in the UFSAR. Therefore, the mitigating functions supported by the DC electrical power system will continue to provide the protection assumed by the analysis. The relocation of preventive maintenance surveillances, and certain operating limits and actions, to a licensee-controlled *Battery Monitoring and Maintenance Program* will not challenge the ability of the DC electrical power system to perform its design function. Appropriate monitoring and maintenance that are consistent with industry standards will continue to be performed. In addition, the DC electrical power system is within the scope of 10 CFR 50.65, *Requirements for monitoring the effectiveness of maintenance at nuclear power plants,* which will ensure the control of maintenance activities associated with the DC electrical power system.

The integrity of fission product barriers, plant configuration, and operating procedures as described in the UFSAR will not be affected by the proposed changes. Therefore, the consequences of previously analyzed accidents will not increase by implementing these changes. Therefore, the proposed changes do 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 previously evaluated?

Response: No.

The proposed changes involve restructuring the TS for the DC electrical power system. The DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the UFSAR. Rather, the DC electrical power system supports equipment used to mitigate accidents. The proposed changes to restructure the TS and change surveillances for batteries and chargers to incorporate the updates included in TSTF–500, Revision 2, will maintain the same level of equipment performance required for mitigating accidents assumed in the UFSAR. Administrative and mechanical controls are in place to ensure the design and operation of the DC systems continues to meet the plant design basis described in the UFSAR. Therefore, operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The equipment margins will be maintained in accordance with the plant-specific design bases as a result of the proposed changes. The proposed changes will not adversely affect operation of plant equipment. These changes will not result in a change to the setpoints at which protective actions are initiated. Sufficient DC capacity to support operation of mitigation equipment is ensured. The changes associated with the new *Battery Maintenance and Monitoring Program* will ensure that the station batteries are maintained in a highly reliable manner. The equipment fed by the DC electrical sources will continue to provide adequate power to safety-related loads in accordance with analysis assumptions.

TS changes made in accordance with TSTF–500, Revision 2, maintain the same level of equipment performance stated in the UFSAR and the current TSs. Therefore, the proposed changes do not involve a significant reduction of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Michael G. Green, Senior Regulatory Counsel, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 8695, Phoenix, Arizona 85072–2034.

NRC Branch Chief: Michael T. Markley.

Calvert Cliffs Nuclear Power Plant, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: October 2, 2012, as supplemented by letter dated November 26, 2012.

Description of amendments request: The amendments would revise Technical Specification (TS) 3.8.3 ''Diesel Fuel Oil'' by relocating the current stored diesel fuel oil numerical volume requirements from the TS to the TS Bases and TS 3.8.1 ''AC Sources-Operating'' by relocating the specific numerical value for the day tank fuel oil volume from the TS to the TS Bases. The changes would be consistent with Nuclear Regulatory Commission (NRC)-approved Industry Technical Specification Task Force Standard Technical Specification Change Traveler, TSTF–501–A, Revision 1.

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. Involve a significant increase in the probability or consequences of an accident previously evaluated; or

No.

The proposed change relocates the volume of diesel fuel oil required to support 7-day operation of an onsite diesel generator, and the volume equivalent to a 6-day supply, to licensee control. The specific volume of fuel oil equivalent to a 7- and 6-day supply is calculated using the limiting energy content of the fuel, the required diesel generator output and the corresponding fuel oil consumption rate. Because the requirement to maintain a 7-day supply of diesel fuel oil is not changed and is consistent with the assumptions in the accident analysis, and the actions taken with the volume of fuel oil is less than a 6-day supply have not changed, neither the probability nor the consequences of any accident previously evaluated will be affected.

The proposed change also relocates the volume of diesel fuel oil required to support one hour of diesel generator operation at full load in the day tank. The specific volume and time is not changed and is consistent with the existing plant design basis to support a diesel generator under accident load conditions.

Therefore, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different type of accident from any accident previously evaluated; or

No.

The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The change does not alter assumptions made in the safety analysis but ensures that the diesel generator operates as assumed in the accident analysis. The proposed change is consistent with the safety analysis assumptions.

The proposed change also relocates the volume of diesel fuel oil required to support one hour of diesel generator operation at full load in the day tank. The change does not alter assumptions made in the safety analysis but ensures that the diesel generator operates as assumed in the accident analysis. The proposed change is consistent with the safety analysis assumptions. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

No.

The proposed change relocates the volume of diesel fuel oil required to support 7-day operation of an onsite diesel generator, and the volume equivalent to a 6-day supply, and one hour day tank supply to licensee control. As the basis for the existing limits on diesel fuel oil are not changed, no change is made to the accident analysis assumptions and no margin of safety is reduced as part of this change.

The proposed change also relocates the volume of diesel fuel oil required to support one hour of diesel generator operation at full load in the day tank. As the basis for the existing limits on diesel fuel oil are not changed, no change is made to the accident analysis assumptions and no margin of safety is reduced as part of this change.

Therefore, the proposed amendment would 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: Steven L. Miller, General Counsel, Constellation Energy Nuclear Group, LLC, 100 Constellation Way, Suite 200c, Baltimore, MD 21202.

NRC Branch Chief: George Wilson.

Calvert Cliffs Nuclear Power Plant, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: October 16, 2012.

Description of amendments request: The amendments would revise Surveillance Requirements (SRs) 3.8.1.8, 3.8.1.11, and 3.8.2.1 and add SR 3.8.1.17 of Technical Specification (TS) 3.8.1 ''AC Sources—Operating.''

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This amendment request proposes to add or modify certain [TS SRs] for the diesel generators. This proposed amendment will provide additional assurance that the AC Sources relied upon to ensure the availability of necessary power to the Engineered Safety Features systems are capable of performing their specified safety function if needed. The diesel generators and their associated emergency loads are accident mitigating features, not accident initiators. This proposed amendment does not change the design function of the diesel generators or any of their required loads, and does not change the way the systems and plant are operated or maintained. This proposed amendment does not impact any plant systems that are accident initiators and does not adversely impact any accident mitigating systems.

The proposed amendment does not affect the operability requirements for the diesel generators, as verification of such operability will continue to be performed as required. Continued verification of operability supports the capability of the diesel generators to perform their required design functions of providing emergency power to the Engineered Safety Features systems, consistent with the plant safety analyses as described in the Updated Final Safety Analysis Report (UFSAR).

Adding or modifying [TS SRs] for the diesel generators will not significantly increase the probability of an accident previously evaluated because the diesel generators and their emergency loads are accident mitigation features, not accident initiators. Adding or modifying [TS SRs] for the diesel generators will not change any of the dose analyses associated with the UFSAR Chapter 14 accidents because accident mitigation functions and requirements remain unchanged.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This amendment request proposes to add or modify certain [TSs SRs] for the diesel generators. This proposed amendment does not change the design function of the diesel generators or any required loads, and does not change the way the systems and plant are operated or maintained. This proposed amendment does not impact any plant systems that are accident initiators and does not adversely impact any accident mitigating systems. Performance of these surveillances tests will provide additional assurance that the AC Sources relied upon to ensure the availability of necessary power to the Engineered Safety Features systems are capable of performing their specified safety function if needed.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

This amendment request proposes to add or modify certain [TS SRs] for the diesel generators. This proposed amendment will provide additional assurance that the AC Sources relied upon to ensure the availability of necessary power to the Engineered Safety Features systems are capable of performing their specified safety function if needed. Margin of safety is related to the ability of the fission product barriers (fuel cladding, reactor coolant system, and primary containment) to perform their design functions during and following postulated accidents. This proposed amendment does not involve or affect fuel cladding, the reactor coolant system, or the primary containment. Performance of these surveillances tests will provide continued assurance that the AC Sources relied upon to ensure the availability of necessary power to the Engineered Safety Features systems are capable of performing their specified safety function if needed.

Therefore, the proposed amendment does not involve a significant reduction in the 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: Steven L. Miller, General Counsel, Constellation Energy Nuclear Group, LLC, 100 Constellation Way, Suite 200c, Baltimore, MD 21202.

NRC Branch Chief: George Wilson.

Detroit Edison, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: December 21, 2012.

Description of amendment request: The proposed amendment would revise the Fermi 2 operating license to change its name on the license to ''DTE Electric Company.'' This name change is purely administrative in nature. Detroit Edison is a wholly owned subsidiary of DTE Energy Company, and this name change is part of a set of name changes of DTE Energy subsidiaries to conform their names to the ''DTE'' brand name. No other changes are contained within this request. This request does not involve a transfer of control over or of an interest in the license for Fermi 2.

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. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment changes the name of the owner licensee. The proposed amendment is purely administrative in nature. The functions, powers, resources and management of the owner licensee will not change. Detroit Edison, which will be renamed DTE Electric Company, will remain the licensee of the facility. The proposed changes do not adversely affect accident initiators or precursors, and do not alter the design assumptions, conditions, or configuration of the plant or the manner in which the plant is operated and maintained. The ability of structures, systems, and components to perform their intended safety functions is not altered or prevented by the proposed changes, and the assumptions used in determining the radiological consequences of previously evaluated accidents are not affected.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment is purely administrative in nature. The functions of the owner licensee will not change. These changes do not involve any physical alteration of the plant (i.e., no new or different type of equipment will be installed), and installed equipment is not being operated in a new or different manner. Thus, no new failure modes are introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed amendment is a name change to reflect the new name of the owner licensee. The proposed amendment is purely administrative in nature. The functions of the owner licensee will not change. Detroit Edison, which will be renamed DTE Electric Company, will remain the licensee of the facility, and its functions will not change. The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. There are no changes to setpoints at which protective actions are initiated, and the operability requirements for equipment assumed to operate for accident mitigation are not affected.

Therefore, the proposed changes do 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: Bruce R. Masters, DTE Energy, General Council—Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226–1279.

NRC Branch Chief: Robert D. Carlson.

Luminant Generation Company LLC, Docket Nos. 50–445 and 50–446, Comanche Peak Nuclear Power Plant, Units 1 and 2, Somervell County, Texas

Date of amendment request: December 19, 2012.

Brief description of amendments: The amendments would revise Technical Specification (TS) 3.8.1, ''AC [Alternating Current] Sources—Operating,'' to revise the Completion Time (CT) for Required Action A.3, ''Restore required offsite circuit to OPERABLE status,'' on one-time basis from 72 hours to 14 days for Comanche

Peak Nuclear Power Plant (CPNPP), Units 1 and 2. The CT extension from 72 hours to 14 days will be used twice while completing the plant modification to install alternate startup transformer (ST) XST1A and will expire on March 31, 2014. After completion of this modification, if ST XST1 should require maintenance or if failure occurs, the alternate ST XST1A can be aligned to the Class 1E buses well within the current CT of 72 hours. Installation of alternate ST will result in improved plant design and will improve the long-term reliability of the 138 kiloVolt (kV) offsite circuit ST.

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 proposed change will revise the CT for the loss of one offsite source from 72 hours to 14 days to allow two, one-time, 14-day CTs. The proposed two, one-time extensions of the CT for the loss of one offsite power circuit does not significantly increase the probability of an accident previously evaluated. The TS will continue to require equipment that will power safety related equipment necessary to perform any required safety function. The two, one-time extensions of the CT to 14 days does not affect the design of the STs, the interface of the STs with other plant systems, the operating characteristic of the STs, or the reliability of the STs.

The consequence of a LOOP [loss-of-offsite power] event has been evaluated in the CPNPP Final Safety Analysis Report (Reference 8.1 [of application dated December 19, 2012]) and the Station Blackout evaluation. Increasing the CT for one offsite power source twice on a one-time basis from 72 hours to 14 days does not increase the consequences of a LOOP event nor change the evaluation of LOOP events.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not result in a change in the manner in which the electrical distribution subsystems provide plant protection. The proposed change will only affect the time allowed to restore the operability of the offsite power source through a ST. The proposed change does not affect the configuration, or operation of the plant. The proposed change to the CT will facilitate installation of a plant modification which will improve plant design and will eliminate the necessity to shut down both Units if XST1 fails or requires maintenance that goes beyond the current TS CT of 72 hours. This change will improve the long-term reliability of the 138kV offsite circuit ST which is common to both CPNPP Units.

There are no changes to the STs or the supporting systems operating characteristics or conditions. The change to the CT does not change any existing accident scenarios, nor create any new or different accident scenarios. In addition, the change does not impose any new or different requirements or eliminate any existing requirements. The change does not alter any of the assumptions made in the safety analysis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not affect the acceptance criteria for any analyzed event nor is there a change to any safety limit. The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. Neither the safety analyses nor the safety analysis acceptance criteria are affected by this change. The proposed change will not result in plant operation in a configuration outside the current design basis. The proposed activity only increases, for two, one-time pre-planned occurrences, the period when the plant may operate with one offsite power source. The margin of safety is maintained by maintaining the ability to safely shut down the plant and remove residual heat.

Therefore, the proposed change does not involve a 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: Timothy P. Matthews, Esq., Morgan, Lewis and Bockius, 1111 Pennsylvania Avenue NW, Washington, DC 20004.

NRC Branch Chief: Michael T. Markley.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: January 3, 2012.

Description of amendment request: The amendment proposes to revise License Condition 2.B(6)(d) ''Physical Protection.'' It is proposed to update the title of the Physical Security Plan, from the ''Maine Yankee Nuclear Power Station Physical Security Plan'', the ''Maine Yankee Nuclear Atomic Power Station Guard Training and Qualification Plan'', and the ''Maine Yankee Nuclear Power Safeguards Contingency Plan'' to the ''Maine Yankee Independent Spent Fuel Storage Installation Physical Security Plan.''

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment is a title change only. There is no reduction in commitments in the Maine Yankee Independent Spent Fuel Storage Installation Physical Security Plan therefore; the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment is a title change only. There is no reduction in commitments in the Maine Yankee Independent Spent Fuel Storage Installation Physical Security Plan therefore; the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment is a title change only. There is no reduction in commitments in the Maine Yankee Independent Spent Fuel Storage Installation Physical Security Plan therefore; the proposed amendment 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 Fay, Maine Yankee Atomic Power Company, 362 Injun Hollow Road, East Hampton, Connecticut, 06424–3099.

NRC Branch Chief: Michele M. Sampson.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: December 6, 2012.

Description of amendment request: The amendment proposes to revise the

Monticello Nuclear Generating Plant (MNGP) Technical Specification (TS) Limiting Condition for Operation 3.10.1, ''Inservice Leak and Hydrostatic Testing Operation,'' and the associated Bases, to expand its scope to include provisions for temperature excursions greater than 212 °F as a consequence of inservice leak and hydrostatic testing, and as a consequence of scram time testing initiated in conjunction with an inservice leak or hydrostatic test, while considering operational conditions to be in MODE 4. The change is consistent with NRC-approved Technical Specification Task Force (TSTF) Improved Standard Technical Specifications Change Traveler, TSTF–484, Revision 0, ''Use of TS 3.10.1 for Scram Time Testing Activities.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is provided below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact the probability or consequences of an accident previously evaluated. Therefore, 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 previously evaluated?

Response: No.

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. No new operational conditions beyond those currently allowed by LCO 3.10.1 are introduced. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

Technical Specifications currently allow for operation at greater than 200 °F while imposing MODE 4 requirements in addition to the secondary containment requirements required to be met. Extending the activities that can apply this allowance will not adversely impact any margin of safety. Allowing completion of inspections and testing and supporting completion of scram time testing initiated in conjunction with an inservice leak or hydrostatic test prior to power operation results in enhanced safe operations by eliminating unnecessary maneuvers to control reactor temperature and pressure. 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: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Robert D. Carlson.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: December 21, 2012.

Description of amendment request: The amendment proposes to revise the Monticello Nuclear Generating Plant (MNGP) Emergency Plan by revising the Emergency Action Level (EAL) setpoint for the Turbine Building Normal Waste Sump (TBNWS) Monitor. The proposed change reduces the classification of a liquid effluent release via the TBNWS pathway to approximately 48 times the Offsite Does Calculation Manual (ODCM) limit from the current 200 times the ODCM limit, thus establishing a value within the indication capability of the radiation monitor.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is provided below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the emergency plan does not impact the physical function of plant structures, systems, or components (SSCs) or the manner in which SSCs perform their design function. The proposed change neither adversely affects accident initiators or precursors, nor alters design assumptions. The proposed change does not alter or prevent the ability of operable SSCs to perform their intended function to mitigate the consequences of an initiating event within assumed acceptance limits. No operating procedures or administrative controls that function to prevent or mitigate accidents are affected by the proposed change.

Therefore, 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 previously evaluated?

Response: No.

The proposed change does not impact the accident analysis. The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The proposed change will not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. The proposed change revises an emergency action level (EAL), which establishes the threshold for placing the plant in an emergency classification. EALs are not initiators of any accidents.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation does to the public. The proposed change is associated with the EALs and does not impact operation of the plant or its response to transients or accidents. The change does not affect the technical specifications or the operating license. The proposed change does not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed change. Additionally, the proposed change will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition.

The revised EAL provides more appropriate and accurate criteria for determining protective measures that should be considered within and outside the site boundary to protect public health and safety. The emergency plan will continue to activate an emergency response commensurate with the extent of degradation of plant safety.

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: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Robert D. Carlson.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: January 4, 2013.

Description of amendment request: The licensee proposed to revise the MNGP Technical Specifications (TS) 3.6.4.3, ''Standby Gas Treatment (SGT) System,'' TS 3.7.4, ''Control Room Emergency Filtration (CREF) System,'' and TS 5.5.6, ''Ventilation Filter Testing Program (VFTP).'' The licensee proposed to modify the TS requirements to operate ventilation systems with charcoal filters from 10 hours each month to 15 minutes in accordance with Technical Specifications Task Force (TSTF) Traveler TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours per Month.''

Specifically, the licensee proposed to revise the surveillance requirements STET which currently require testing of SGT and CREF Systems, with heaters operating, for a continuous 10 hour period every 31 days without the heaters operating. The associated SRs are proposed to be revised to require operation of these systems for 15 continuous minutes every 31 days. Additionally, the licensee proposed to remove Specification 5.5.6, Item e, under the VFTP, concerning operation of the SGT and CREF Systems heaters.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is provided below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change replaces existing SRs to operate the SGT System and CREF System equipped with electric heaters for a continuous 10 hour period every 31 days with a requirement to operate the systems for 15 continuous minutes (without the heaters operating) and removes a no longer required SR under the VFTP.

These systems are not accident initiators and, therefore, these changes do not involve a significant increase in the probability of an accident. The proposed system and filter testing changes are consistent with current regulatory guidance for these systems and will continue to assure that these systems perform their design function which may include mitigating accidents. Thus, the changes do not involve a significant increase in the consequences of an accident.

Therefore, it is concluded that these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes replaces existing SRs to operate the SGT System and CREF System equipped with electric heaters for a continuous 10 hour period every 31 days with a requirement to operate the systems for 15 continuous minutes (without the heaters operating) and removes a no longer required SR under the VFTP.

The change proposed for these ventilation systems does not change any systems operations or maintenance activities. Testing requirements will be revised and will continue to demonstrate that the Limiting Conditions for Operation (LCO) are met and the system components are capable of performing their intended safety functions. The changes do not create new failure modes or mechanisms and no new accident precursors are generated.

Therefore, it is concluded that these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes replaces existing SRs to operate the SGT System and CREF System equipped with electric heaters for a continuous 10 hour period every 31 days with a requirement to operate the systems for 15 continuous minutes (without the heaters operating) and removes a no longer required SR under the VFTP. Testing requirements will be revised and will continue to demonstrate that the LCOs are met and the system components are capable of performing their intended safety functions.

The proposed changes are consistent with regulatory guidance. Therefore, it is concluded that these changes do 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 the licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401

NRC Branch Chief: Robert D. Carlson.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: December 13, 2012.

Description of amendment request: The proposed amendments would revise the Prairie Island Nuclear Generating Plant Emergency Plan by revising certain emergency action levels described in the plan.

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This license amendment request proposes to revise Emergency Plan emergency action levels for classification of liquid effluent releases and determining fuel clad barrier loss. These changes propose to use installed plant radiation monitors differently but do not involve any physical plant changes.

The Emergency Plan emergency action levels and installed plant radiation monitors are not accident initiators and therefore the proposed changes do not involve an increase in the probability of an accident. The proposed emergency action level changes do not affect the capability of any structures, system or components to mitigate a design basis accident. Thus the proposed changes do not involve a significant increase in the consequences of an accident.

Therefore, the proposed Emergency Plan emergency action level changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This license amendment request proposes to revise Emergency Plan emergency action levels for classification of liquid effluent releases and determining fuel clad barrier loss. These changes propose to use installed plant radiation monitors differently but do not involve any physical plant changes.

The proposed Emergency Plan emergency action level changes do not change any system operations or maintenance activities. The changes do not involve physical alteration of the plant, that is, no new or different type of equipment will be installed. The changes do not alter assumptions made in the safety analyses but ensures that the plant Emergency Plan is effectively and consistently implemented. These changes do not create new failure modes or mechanisms which are not identifiable during testing and no new accident precursors are generated.

Therefore, the proposed Emergency Plan emergency action level changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

This license amendment request proposes to revise Emergency Plan emergency action levels for classification of liquid effluent releases and determining fuel clad barrier loss. These changes propose to use installed plant radiation monitors differently but do not involve any physical plant changes.

Margin of safety is provided by the ability of accident mitigation structures systems or components to perform at their analyzed capability. The changes proposed in this license amendment request do not affect the capability of any equipment to perform its accident mitigation function. Thus, no margin of safety is reduced as part of this change.

Therefore, the proposed Emergency Plan emergency action level changes do 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 requests involve no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Robert D. Carlson.

South Carolina Electric and Gas Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: February 7, 2013.

Description of amendment request: The proposed change would amend Combined License Nos.: NPF–93 and NPF–94 for Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3 in regard to the Primary Sampling System (PSS) by: (1) Replacing containment air return check valve PSS–PL–V024 with a solenoid-operated valve, and (2) redesigning the PSS inside-containment header and adding a PSS containment penetration.

Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 design control document (DCD), the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Primary Sampling System (PSS) provides the safety-related function of preserving containment integrity by isolation of the PSS lines penetrating containment. The proposed amendment will enhance the ability of the PSS to perform its nonsafety-related function of providing the capability to obtain reactor coolant and containment atmosphere samples, while maintaining the ability of the PSS to perform its safety-related containment isolation function. The replacement of a check valve with a solenoid-operated containment isolation valve and the redesigned inside-containment header does not affect the safety-related function of isolating the PSS lines for containment isolation. The components added by this proposed activity, including tubing and the solenoid-operated containment isolation valve, are designed to the same codes and standards as other components addressed in the certified design that perform similar functions. The additional PSS containment penetration is a passive extension of containment and is identical in form, fit, and function to other PSS sampling containment penetrations currently addressed in the certified AP1000 plant design. The addition of a new PSS containment penetration will not change the maximum allowable leakage rate allowed by Technical Specifications and verified periodically in accordance with regulations. Furthermore, the proposed PSS configuration changes will neither impact any accident source term parameter or fission product barrier nor affect radiological dose consequence analysis.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The additional containment penetration is similar in form, fit, and function to the PSS penetrations that are currently described in the Updated Final Safety Analysis Report. Because the PSS changes use valve types, piping, and a containment penetration consistent with those already described in the Updated Final Safety Analysis Report, no new failure modes or equipment failure initiators are introduced by these changes. Accordingly, the proposed changes do not create any new malfunctions, failure mechanisms, or accident initiators.

Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The containment isolation function is not changed by this activity and is bounded by the existing design. The proposed PSS containment penetration is similar in form, fit, and function to other containment penetrations in similar applications in the current certified AP1000 plant design. The additional PSS containment penetration is an extension of containment, and, therefore, does not affect containment or its ability to perform its design function. The addition of PSS components, including the solenoid-operated containment isolation valve, the additional PSS containment penetration, and the associated tubing, do not exceed or alter a design basis or safety limit. Because the containment isolation function, containment leakage rate limit, potential containment leakage, and protective shielding are not changed by this activity and are bounded by the existing design, there is no change to any current margin of safety.

Therefore, the proposed amendment 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: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence Burkhart, Acting.

South Carolina Electric and Gas Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: February 14, 2013.

Description of amendment request: The proposed change would amend Combined License Nos.: NPF–93 and NPF–94 for Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3 in regard to the structural module stud size and spacing by increasing the carbon steel vertical stud spacing, decreasing the stainless steel stud diameter, and decreasing the stainless steel vertical and horizontal stud spacing in accordance with the design basis.

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design function of the containment modules is to support the reactor coolant system components and related piping systems and equipment. The design functions of the affected structural module in the auxiliary building are to provide support and protection for new and spent fuel and the equipment needed to support fuel handling, cooling, and storage in the spent fuel racks, and to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located outside the containment building. The design function of the shear studs it to transfer loads into the concrete of the structural modules. The proposed change corrects a drawing note regarding shear stud size and spacing for structural wall modules to be consistent with the underlying design basis calculations, which are more conservative. The thickness, geometry, and strength of the structures are not adversely altered. The properties of the concrete included in the modules are not altered. As a result, the design function of the structural modules is not adversely affected by the proposed change. There is no change to plant, systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to normal operation or postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor does the change described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change corrects a drawing note regarding shear stud size and spacing for structural wall modules to be consistent with the underlying design basis calculations. Stud spacing and sizing are updated such that stud loadings are within acceptable limits and that the structural module acts in a composite manner. The thickness, geometry, and strength of the structures are not adversely altered. The properties of the concrete included in the modules are not altered. The change to the internal design of the structural modules does not create any new accident precursors. As a result, the design function of the modules is not adversely affected by the proposed change.

Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The criteria and requirements of AISC–N690 provide a margin of safety to structural failure. The design of the shear studs for the structural wall modules conforms to criteria and requirements in AISC–N690 and therefore maintains the margin of safety. The proposed change corrects a drawing note regarding shear stud size and spacing for the structural wall modules so as to be consistent with the underlying design basis calculations. There was no change to the method of evaluation from that used in the design basis calculations.

Therefore, the proposed amendment 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: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence Burkhart, Acting.

South Carolina Electric and Gas Company Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: February 7, 2013 and revised on February 14, 2013.

Description of amendment request: The proposed change would amend Combined License Nos.: NPF–93 and NPF–94 for Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3 to allow the use of concentrically and eccentrically braced frames in the turbine building main area and modify the applicable design code.

Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 design control document (DCD), the licensee also requested an exemption from the requirements of the Generic DCD Tier1 in accordance with 52.63(b)(1).

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The turbine building bracing design is changed to a mixed bracing system which uses special concentric and eccentric bracing. The turbine building does not contain safety-related systems or components. The main area of the turbine building continues to meet its design function of preventing a turbine building collapse from impairing the integrity of seismic Category I structures, systems, or components. The first bay of the turbine building is designed to prevent the collapse of the main area of the Turbine Building onto the Nuclear Island during a seismic event. The proposed changes do not affect or impact this design capability. Therefore, the response of the safety related systems, structures, and components in the Nuclear Island to earthquakes and postulated accidents are not affected by the bracing of the turbine building. Based on the above, there is no change in the probability of an accident previously evaluated. The activity does not introduce a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures. Accordingly, there is no change in the consequences of an accident previously evaluated.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The turbine building bracing design is changed to a mixed bracing system which uses Special Concentrically Braced Framing (SCBF) and Eccentrically Braced Framing (EBF). The main area of the turbine building continues to meet its design function of preventing a turbine building collapse from impairing the integrity of seismic Category I structures, systems, or components. The design function of the turbine building first bay to provide the intended limitations to a potential collapse onto the nuclear island during a seismic event is retained. The turbine building structure does not involve any accident initiating component and therefore, changes to use SCBF and EBF would not introduce new accident components or faults.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Use of a mixed bracing system and changing the structural code design for the turbine building main area continue to meet the design function of preventing a turbine building collapse from impairing the integrity of seismic Category I Structures, Systems, and Components. In addition, the first bay of the turbine building continues to be designed to seismic Category II requirements to prevent a turbine building collapse from impairing the integrity of the seismic Category I nuclear island structures, systems and components. This portion of the turbine building and its design is unchanged by the proposed amendment. Maintaining the seismic Category II rating for the turbine building first bay, along with continuing to meet the design function for the non-safety, non-seismic design of the turbine building main area preserves the current structural safety margins.

Therefore, the proposed amendment 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: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence Burkhart, Acting.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: January 11, 2013.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for Vogtle Electric Generating Plant (VEGP) Units 3 and 4 in regard to the Chemical and Volume Control System (CVS) by: (1) Providing a spring-assisted check valve around the air-operated Reactor coolant System (RCS) Purification Return Line Stop Check Valve, (2) replacing the CVS zinc addition inboard containment isolation lift check valve with an air-operated globe valve and a thermal relief valve and (3) separating the zinc and hydrogen injection paths and relocate the zinc injection path.

Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 design control document (DCD), the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The changes to provide a spring-assisted check valve located in the bypass line around the makeup stop check valve would continue to meet the existing design functions because the ASME Boiler and Pressure Vessel Code (ASME Code) Section III valves will maintain the flow isolation design function and preserve the Reactor Coolant System (RCS) pressure boundary safety function. The replacement of the Chemical and Volume Control System (CVS) zinc addition inboard containment isolation lift check valve with an air operated globe valve and addition of a pressure relief valve would continue to meet the containment isolation and RCS pressure boundary design functions because the replacement valves will be designed, analyzed, tested and qualified, including seismic qualification, to ASME Code Section III requirements. Separating the zinc and hydrogen injection paths and relocating the zinc injection point would continue to meet containment boundary requirements, including containment isolation and in-service testing, and preserve the RCS pressure boundary safety functions because the revised containment isolation configuration is consistent with those described in 10 CFR 50, Appendix A, General Design Criterion (GDC) 55, and the additional valves and piping will be qualified to ASME Code Section III. Because the proposed CVS changes would preserve the CVS safety-related design functions, the probability of an accident previously evaluated is not affected.

The CVS safety functions have been preserved, because the proposed CVS configuration changes, including revised valve types, will perform the same safety functions as the current design. The proposed CVS configuration changes would neither impact any accident source term parameter or fission product barrier nor affect radiological dose consequence analysis.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The additional containment penetration is similar in form, fit, and function to the CVS combined zinc/hydrogen containment penetration that is currently described in the Updated Final Safety Analysis Report. Because the CVS changes use valve types, piping, and a containment penetration consistent with those already described in the Updated Final Safety Analysis Report, no new failure modes or equipment failure initiators are introduced by these changes. Accordingly, the proposed changes do not create any new malfunctions, failure mechanisms, or accident initiators.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The containment isolation and pressure relief functions would not be changed by this activity and are consistent with the existing design. The proposed CVS containment penetration is similar in form, fit, and function to existing CVS combined zinc/hydrogen containment penetration and, therefore, does not affect containment or its ability to perform its design function. The addition of these CVS components, including piping, a spring-assisted check valve, an air-operated containment isolation valve, a thermal relief valve and the additional CVS containment penetration do not impact a design basis or safety limit. Because the CVS design functions of controlling the RCS oxygen concentration, reducing radiation fields, containment isolation and overpressure protection within existing limits are not changed by this activity and are bounded by the existing design, there is no change to any current margin of safety.

Therefore, the proposed changes do 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: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence Burkhart, Acting.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: February 7, 2013 and revised on February 15, 2013.

Description of amendment request: The proposed change would amend Combined License Nos.: NPF–91 and NPF–92 for Vogtle Electric Generating Plant (VEGP) Units 3 and 4 to allow the use of concentrically and eccentrically braced frames in the turbine building main area and modify the applicable design code.

Because this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 design control document (DCD), the licensee also requested an exemption from the requirements of the Generic DCD Tier1 in accordance with 52.63(b)(1).

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The turbine building bracing design is changed to a mixed bracing system which uses special concentric and eccentric bracing. The turbine building does not contain safety-related systems or components. The main area of the turbine building continues to meet its design function of preventing a turbine building collapse from impairing the

integrity of seismic Category I structures, systems, or components. The first bay of the turbine building is designed to prevent the collapse of the main area of the Turbine Building onto the Nuclear Island during a seismic event. The proposed changes do not affect or impact this design capability. Therefore, the response of the safety related systems, structures, and components in the Nuclear Island to earthquakes and postulated accidents are not affected by the bracing of the turbine building. Based on the above, there is no change in the probability of an accident previously evaluated. The activity does not introduce a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures. Accordingly, there is no change in the consequences of an accident previously evaluated.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The turbine building bracing design is changed to a mixed bracing system which uses Special Concentrically Braced Framing (SCBF) and Eccentrically Braced Framing (EBF). The main area of the turbine building continues to meet its design function of preventing a turbine building collapse from impairing the integrity of seismic Category I structures, systems, or components. The design function of the turbine building first bay to provide the intended limitations to a potential collapse onto the nuclear island during a seismic event is retained. The turbine building structure does not involve any accident initiating component and therefore, changes to use SCBF and EBF would not introduce new accident components or faults.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Use of a mixed bracing system and changing the structural code design for the turbine building main area continue to meet the design function of preventing a turbine building collapse from impairing the integrity of seismic Category I Structures, Systems, and Components. In addition, the first bay of the turbine building continues to be designed to seismic Category II requirements to prevent a turbine building collapse from impairing the integrity of the seismic Category I nuclear island structures, systems and components. This portion of the turbine building and its design is unchanged by the proposed amendment. Maintaining the seismic Category II rating for the turbine building first bay, along with continuing to meet the design function for the non-safety, non-seismic design of the turbine building main area preserves the current structural safety margins.

Therefore, the proposed amendment 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: Mr. M. Stanford Blanton, Blach & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence Burkhart, Acting.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: December 13, 2012.

Description of amendment request: The amendment would revise Technical Specification (TS) 3.7.9, ''Ultimate Heat Sink (UHS),'' to incorporate more restrictive UHS level and pond temperature limits which are specified in Surveillance Requirements (SRs) 3.7.9.1 and 3.7.9.2, respectively. In addition, new SR 3.7.9.4 would be added to verify that the UHS cooling tower fans respond appropriately to automatic start signals.

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.

There are no design changes associated with the proposed amendment. All design, material, and construction standards that were applicable prior to this amendment request will continue to be applicable. The proposed change will not adversely affect accident initiators or precursors or adversely alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained with respect to such initiators or precursors. The proposed changes do not affect the way in which safety-related systems perform their functions.

All accident analysis acceptance criteria will continue to be met with the proposed changes. The proposed changes will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. The proposed changes will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the FSAR [final safety analysis report]. The applicable radiological dose acceptance criteria will continue to be met.

The intent of the modified UHS water level and temperature limits for TS 3.7.9, as proposed, is to ensure that the UHS can perform its specified safety function for accident mitigation, including consideration of its 30-day mission time. The proposed surveillance limits are more restrictive and are based on an analysis that includes credit given to specific operator actions (with assumed completion times) not previously assumed. However, the operator actions are reasonable and have been established in accordance with NRC-approved guidance. Further, they have been simulator verified and proven to be capable of being met by plant operators under applicable accident scenarios.

The crediting of these operator actions is consistent with the plant's current licensing basis which already credits operator action to provide long-term protection of the UHS following an accident. These actions, in conjunction with the more restrictive proposed UHS water temperature and level surveillance limits, support the plant's existing accident analysis such that there is no change in analyzed consequences. In light of these considerations, there is no significant increase in the consequences of any accident previously evaluated with regard to the assumed operator actions and revised UHS water level and temperature limits, as proposed. The proposed change adds additional controls to the Technical Specifications but does not physically alter safety-related systems or affect the way in which safety-related systems perform their functions per the intended plant design.

As such, the proposed change will not alter or prevent the capability of structures, systems, and components (SSCs) to perform their intended functions for mitigating the consequences of an accident and meeting applicable acceptance limits. Therefore, 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.

With respect to any new or different kind of accident, there are no proposed design changes nor are there any changes in the method by which any safety-related plant SSC performs its specified safety function. The proposed change will not affect the normal method of plant operation. No new transient precursors will be introduced as a result of this amendment. The reanalysis discussed herein addresses new large break LOCA [loss-of-coolant accident] scenarios with assumptions, including single failures, aimed at maximizing the UHS temperature and minimizing the UHS inventory.

The proposed change adds requirements to the Technical Specifications. The change does not involve a physical modification of the plant. The UHS level and temperature limits within which the plant is normally operated are being changed in the

conservative direction. Appropriate changes have been made to the emergency operating procedures relied upon to mitigate a design basis event. The change does not have a detrimental impact on the manner in which plant equipment operates or responds to an actuation signal. The changes to the ultimate heat sink (UHS) surveillance limits are in the conservative direction.

The proposed change does not, therefore, create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

There will be no effect on those plant systems necessary to assure the accomplishment of protection functions associated with reactor operation or the reactor coolant system. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor (FΔH), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other limit and associated margin of safety. Required shutdown margins in the COLR [core operating limits report] will not be changed.

The proposed change does not eliminate any surveillances or alter the frequency of surveillances required by the Technical Specifications. The proposed change would add Technical Specification Surveillance Requirements for assuring the automatic closure of the UHS cooling tower bypass valves when required and the automatic start of the UHS cooling tower fans and their transition from slow speed to fast speed when required. The extent of Callaway's conformance to NRC Regulatory Guide (RG) 1.27 is discussed in FSAR Site Addendum Table 9.2–5 (see Attachment 4 to this Enclosure [to the submittal]). RG 1.27 requires that the UHS be sized for 30 day post-LOCA operation; however, it does not specify a margin value above that 30-day requirement. During initial plant licensing (Callaway Safety Evaluation Report, NUREG–0830, Supplement 4, Section 2.4.4) a UHS level margin of 50% was accepted in lieu of a more restrictive minimum Technical Specification water level of 834 feet mean sea level (16 feet above the reference pond bottom) and a thermal and hydrologic analysis of the ESW [essential service water] and UHS. In this amendment request SR 3.7.9.1 is being changed to adopt the former and the supporting EF–123 analysis addresses the latter. The SER [safety evaluation report] Supplement 4 discussion, copied in Section 2.2 of this Evaluation, will no longer be applicable upon NRC approval of this license amendment request.

As such, the proposed change does not involve a significant reduction in a margin of safety as defined in any regulatory requirement or guidance document.

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: John O'Neill, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: December 20, 2012.

Description of amendment request: The amendment would revise a methodology in the licensing basis as described in the Final Safety Analysis Report—Standard Plant to include damping values for the seismic design and analysis of the integrated head assembly that are consistent with the recommendations of NRC Regulatory Guide 1.61, ''Damping Values for Seismic Design of Nuclear Power Plants,'' Revision 1, March 2007.

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 change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would allow use of critical damping values consistent with the recommendations of RG [Regulatory Guide] 1.61, ''Damping Values for Seismic Design of Nuclear Power Plants,'' Revision 1, dated March 2007, for the seismic design and analysis of the IHA [integrated head assembly].

The RG 1.61, Revision 1, Table 1 note allowing use of a ''weighted average'' for design-basis SSE [safe shutdown earthquake] damping values applicable to steel structures of different connection types, is also applied to determine the IHA design-basis OBE [operating basis earthquake] damping values. RG 1.61, Revision 1, Table 2 for OBE damping values does not contain the same note found in Table 1. However use of the note for the determination of the OBE damping value is consistent with the use of the note for the determination of the SSE damping values, and a weighted average more realistically represents the IHA structure. RG 1.61, Revision 1, specifies the damping values that the NRC staff currently considers acceptable for complying with the agency's regulations and guidance for seismic analysis. Revision 1 incorporates the latest data and information, and reduces unnecessary conservatism in specification of damping values for seismic design and analysis of SSCs [structures, systems, and components].

The proposed change does not change the design functions of the IHA or its response to design-basis events, nor does it affect the capability of related SSCs to perform their design or safety functions. The use of the proposed damping values in the seismic design and analysis of the IHA is related to the ability of the IHA to function in response to design-basis seismic events, and is unrelated to the probability of occurrence of those events, or other previously evaluated accidents. Therefore, the proposed change will not have any impact on the probability of an accident previously evaluated.

The proposed damping values are an element of the seismic analyses performed to confirm the ability of the IHA to function under postulated seismic events while maintaining resulting stresses within ASME [American Society of Mechanical Engineers *Boiler and Pressure Vessel Code*] Section III allowable values. Therefore, the use of damping values consistent with the recommendations of RG 1.61, Revision 1 does not result in an increase in the consequences of accidents previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve changes to any plant SSCs, nor does it involve changes to any plant operating practice or procedure. The damping values are an element of the seismic analyses performed to confirm the ability of the IHA to function under postulated seismic events while maintaining resulting stresses within ASME Section III allowable values. Therefore, no credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases are created that would create the possibility of a new or different kind of accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Response: No.

The design basis of the plant requires structures to be capable of withstanding normal and accident loads including those from a design basis earthquake. The proposed change would allow the use of damping values in the IHA seismic analyses that are, in general, more realistic and, thus, more accurate than the damping values recommended in RG 1.61, Revision 0, used in the original analysis for the SSE, or the plant specific damping values used in the original analysis for the OBE. The damping values in RG 1.61, Revision 0, were based on limited data, expert opinion, and other information available in 1973. NRC and industry research since 1973 shows that the damping values provided in the original version of RG 1.61 may not reflect realistic damping values for SSCs. RG 1.61, Revision 1, therefore, provides damping values based on the updated research results that predict

and estimate damping values for seismic design of SSCs in nuclear power plants, and similarly should not be regarded as an arbitrary lowering of the margins 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: John O'Neill, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW., Washington, DC 20037.

NRC Branch Chief: Michael T. Markley.

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov*.

Carolina Power and Light Company, et al., Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: March 16, 2012, as supplemented by letter dated August 16, 2012.

Brief Description of amendment: The amendment revised the Technical Specifications (TSs) to make corrections in TS Table 3.3.1–1 for Overtemperature Delta Temperature consistent with NUREG–1431, Revision 3, ''Standard Technical Specifications Westinghouse Plants.''

Date of issuance: February 13, 2013.

Effective date: As of date of issuance and shall be implemented within 120 days.

Amendment No.: 231.

Renewed Facility Operating License No. DPR–23: Amendment changed the license and TSs.

Date of initial notice in ***Federal Register:*** April 17, 2012 (77 FR 22811). The supplement dated August 16, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 13, 2013.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendment: June 6, 2012, as supplemented by letter dated. November 19, 2012.

Brief description of amendment: The proposed amendment modifies Braidwood and Byron technical specifications (TS) to add a Note to surveillance requirements (SRs) 3.3.1.7, 3.3.1.8, and 3.3.1.12 in TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation,'' and SRs 3.3.2.2 and 3.3.2.6 in TS 3.3.2, ''Engineered Safety Features Actuation System (ESFAS) Instrumentation,'' to exclude the Solid State Protection System input relays from the Channel Operational Test Surveillance for RTS and ESFAS functions with installed bypass capability which the U.S. Nuclear Regulatory Commission (NRC) approved by letters dated March 30, and April 9, 2012.

Date of issuance: February 6, 2013.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment Nos.: 171 for Braidwood Station, Units 1 and 2, and 178 for Byron Station, Unit Nos. 1 and 2, respectively.

Facility Operating License Nos. NPF–72. NPF–77, NPF–37, and NPF–66: The amendments revised the Technical Specifications and License.

Date of initial notice in ***Federal Register:*** September 4, 2012 (77 FR 53927).

The November 19, 2012, supplement contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 6, 2013.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant (BFN), Units 2 and 3, Limestone County, Alabama

Date of application for amendments: February 25, 2011, as supplemented by letters dated September 15, 2011, July 30, 2012, and January 24, 2013. The enclosure to the July 30, 2012, letter superseded, in its entirety, the enclosure to the February 25, 2011, letter.

Brief description of amendments: The amendments delete the BFN, Units 2 and 3, Technical Specification (TS) Surveillance Requirement 3.5.1.12, which requires the verification of the capability to automatically transfer the power supply from the normal source to the alternate source for each Low-Pressure Coolant Injection subsystem inboard injection valve and each recirculation pump discharge valve on a 24-month frequency. In addition, these amendments approve the use of a modified loss-of-coolant accident

(LOCA) methodology that requires revising TS 5.6.5.b to include a reference to the modified LOCA methodology. Also, the amendments revise TSs 3.3.1.1, 5.6.5.a, and 5.6.5.b to include the modified LOCA methodology and the oscilliation power range monitor upscale function period based detection algorithm setpoint limits.

Date of issuance: February 15, 2013.

Effective date: The amendments are effective as of this date of issuance. For Unit 2, the amendment shall be implemented prior to entering Mode 3 (i.e., Hot Shutdown) from the spring 2013 refueling outage. For Unit 3, changes to TSs 5.6.5 and 3.3.1 shall be implemented within 60 days of issuance. The remaining changes shall be implemented prior to entering Mode 3 from the spring 2014 refueling outage.

Amendment Nos.: Unit 1—309 and Unit 2—268.

Renewed Facility Operating License Nos. DPR–52 and DPR–68: Amendments revised the licenses and TSs.

*Date of initial notice in **Federal Register:*** The original application dated February 25, 2011, was noticed on May 3, 2011 (76 FR 24930). The supplement dated July 30, 2012, was noticed on November 5, 2012 (77 FR 66490). The supplement dated January 24, 2013, provided additional information that clarified the licensee's July 30, 2012, submittal, did not expand the scope of the application as noticed and did not change the NRC staff's proposed no significant hazards consideration determination as published in the FR on November 5, 2012 (77 FR 66490).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 2013.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket No. 50–339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: May 11, 2012.

Brief Description of amendment: The amendment would revise the Technical Specification (TS) 3.1.7, ''Rod Position Indication'' to allow two demand position indicators in one or more banks to be inoperable for up to 4 hours. This change is proposed as a temporary change to the TS for the current operating cycle and is proposed as a footnote to the current TS Limiting Condition for Operation (LCO) Section 3.1.7, Condition D.

Date of issuance: February 14, 2013.

Effective date: As of the date of issuance and shall be implemented within the end of operating Cycle 22.

Amendment No.: 251.

Renewed Facility Operating License No. NPF–7: Amendment changes the license and the TS.

*Date of initial notice in **Federal Register:*** June 12, 2012 (77 FR 35077).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 2013.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 25th day of February 2013.

For the Nuclear Regulatory Commission.

Louise Lund,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–04885 Filed 3–1–13; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68992]

Public Availability of the Securities and Exchange Commission's FY 2012 Service Contract Inventory

AGENCY: U.S. Securities and Exchange Commission.

ACTION: Notice.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), SEC is publishing this notice to advise the public of the availability of the FY2012 Service Contract Inventory (SCI) and the FY2011 SCI Analysis. The SCI provides information on FY2012 actions over $25,000 for service contracts. The inventory organizes the information by function to show how SEC distributes contracted resources throughout the agency. SEC developed the inventory per the guidance issued on November 5, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The Service Contract Inventory Analysis for FY2011 provides information based on the FY2011 Inventory. The SEC has posted its inventory, a summary of the inventory and the FY2011 analysis on the SEC's homepage at *http://www.sec.gov/about/secreports.shtml* or *http://www.sec.gov/open.*

FOR FURTHER INFORMATION CONTACT: Direct questions regarding the service contract inventory to Vance Cathell, Director, Office of Acquistions, 202.551.8385 or *CathellV@sec.gov.*

Dated: February 27, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–04917 Filed 3–1–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

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 an Open Meeting on Wednesday, March 6, 2013 at 10:00 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

The Commission will consider whether to propose Regulation Systems Compliance and Integrity (Regulation SCI) under the Securities Exchange Act of 1934 (''Exchange Act'') and conforming amendments to Regulation ATS under the Exchange Act.

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 27, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–04987 Filed 2–28–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68977; File No. SR–BX–2013–017]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees to C2

February 25, 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] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

21, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend fees for routing options to away markets in Chapter XV, entitled ''Options Pricing,'' at Section 2.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.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 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 proposes to amend its Routing Fees at Chapter XV, Section 2(4) of the Exchange Rules in order to recoup costs applicable to the C2 Options Exchange, Inc. (''C2'') that the Exchange incurs for routing and executing orders in equity options. Today, the Exchange calculates Routing Fees by assessing certain Exchange costs related to routing orders to away markets plus the away market's transaction fee. The Exchange assesses a $0.05 per contract fixed Routing Fee when routing orders to the NASDAQ OMX PHLX LLC (''PHLX'') and the NASDAQ Stock Market LLC (''NOM'') and a $0.11 per contract fixed Routing Fee to all other options exchanges in addition to the actual transaction fee or rebate paid by the away market.[3]

The fixed Routing Fee is based on costs that are incurred by the Exchange when routing to an away market in addition to the away market's transaction fee. For example, the Exchange incurs a fee when it utilizes Nasdaq Options Services LLC (''NOS''), a member of the Exchange and the Exchange's exclusive order router.[4] Each time NOS routes to away markets NOS incurs a clearing-related cost[5] and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange also incurs administrative and technical costs associated with operating NOS, membership fees at away markets, Options Regulatory Fees (''ORFs'') and technical costs associated with routing options.

C2 recently filed a ruled change to amend its transaction fees and rebates for simple,[6] non-complex orders, in equity options classes which became operative on February 1, 2013.[7] C2 assesses its transaction fees based on a formula wherein fees are calculated on a per-contract basis.[8] C2 pays rebates based on a formula wherein rebates are calculated on a per-contract basis.[9] Because of this recent rule change, the Exchange proposes to amend C2 Routing Fees to provide transparency to its market participants.

The Exchange proposes to amend its non-Customer C2 Routing Fees to assess the fixed cost of $0.11 per contract plus a flat rate of $0.85 per contract, except with respect to Customers.[10] With respect to Customers, the Exchange proposes not to pass the rebate offered by C2, as is the case today for Routing to C2 and other away markets. The Exchange proposes to not assess Customers a Routing Fee when routing orders to C2. This is similar to the manner in which the BATS Exchange, Inc. (''BATS'') prices Customer orders routed to C2.[11] The Exchange proposes to specifically note the amended rates in its rule text in order to simplify C2 Routing Fees.

As with all fees, the Exchange may adjust these Routing Fees in response to competitive conditions by filing a new proposed rule change.

2. Statutory Basis

BX believes that its proposal to amend its pricing is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(4) of the Act,[13] in particular, in that it is an equitable allocation of reasonable fees and other charges among its Participants.

The Exchange believes that its proposal to amend non-Customer C2 Routing Fees from actual transaction charges to a flat rate, in addition to its fixed cost, is reasonable because the current C2 Routing Fees are not transparent. The Exchange believes that assessing a flat rate in addition to the fixed cost assessed by the Exchange will provide market participants certainty with respect to C2 Routing Fees. Further, each destination market's transaction charge varies and there is a cost incurred by the Exchange when routing orders to away markets. The costs to the Exchange include clearing costs, administrative and technical costs associated with operating NOS, membership fees at away markets, ORFs

[3] Today, the transaction fee assessed by the Exchange is based on the away market's actual transaction fee or rebate for a particular market participant at the time that the order was entered into the Exchange's trading system. This transaction fee is calculated on an order-by-order basis, since different away markets charge different amounts. In the event that there is no transaction fee or rebate assessed by the away market, the only fee assessed is the fixed Routing Fee. With respect to the rebate, the Exchange pays a market participant the rebate offered by an away market where there is such a rebate. Any rebate available is netted against a fee assessed by the Exchange. The Exchange is not proposing to amend its calculation of the away market's transaction fee as described herein.

[4] *See* BX Rules at Chapter VI, Section 11(e) (Order Routing).

[5] The Options Clearing Corporation (''OCC'') assesses a clearing fee of $0.01 per contract side. *See* Securities Exchange Act Release No. 68025 (October 10, 2012), 77 FR 63398 (October 16, 2012) (SR–OCC–2012–18).

[6] C2 defines simple orders to exclude ETFs and indexes.

[7] *See* Securities Exchange Act Release No. 68792 (January 31, 2013), 78 FR 8621 (February 6, 2013) (SR–C2–2013–004).

[8] C2 utilizes the following formula to calculate its transaction fees: C2 BBO Market Width at time of execution) × (Market Participant Rate) × 50. The C2 BBO Market Width is the difference between the quoted best offer and best bid in each class on C2 (the displayed C2 ask price minus the displayed C2 bid price). The Market Participant Rates are different rates for different types of market participants, as follows: Market Participant Rate; C2 Market-Maker 30%; Public Customer (Maker) 40%; all other origins 50%. *See* C2's Fees Schedule.

[9] C2 utilizes the following formula to compute rebates for simple, non-complex Public Customer orders in all equity options classes that remove liquidity (i.e. takers): Rebate = (C2 BBO Market Width at time of execution) × (Order Size Multiplier) × 50. The order size multiplier is as follows: 1–10 contracts will be 36%; 11–99 contracts will be 30%; 100–250 contracts will be 20% and 251 plus contracts is 0%. The maximum rebate is capped at $0.75 per contract. *See* C2's Fees Schedule.

[10] Recent pricing changes by C2 will result in a maximum fee of $0.85 per contract for non-Customer orders executed at C2 and rebates or free executions for Customer orders executed at C2.

[11] *See* SR–BATS–2013–012 (not yet published).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

and technical costs associated with routing options. The Exchange believes that the proposed non-Customer C2 Routing Fees will enable the Exchange to recover the costs it incurs to route orders to C2 in addition to the flat fee to recoup transaction costs.

The Exchange believes that its proposal to amend the non-Customer C2 Routing Fees from actual transaction charges to a flat rate, in addition to its fixed cost, is equitable and not unfairly discriminatory because the Exchange would uniformly assess the same C2 Routing Fees to all non-Customer market participants. Under its flat fee structure, taking all costs to the Exchange into account, the Exchange may operate at a slight gain or a slight loss for orders routed to and executed at C2. The Exchange believes that its proposed Routing Fees for routing non-Customer orders to C2 are reasonable because they are an approximation of the maximum fees the Exchange will be charged for such executions, including costs. As a general matter, the Exchange believes that the proposed fees will allow it to recoup and cover its costs of providing routing services to C2.

The Exchange believes that its proposal to not pay a rebate to Customers and assess no Customer Routing Fee is reasonable, equitable and not unfairly discriminatory. The Exchange believes that the pricing structure is reasonable because, although not an approximation of the cost of routing to C2, Customer orders will still receive executions free of charge, whereas all other non-Customer routed orders routed to C2 would be assessed a Routing Fee. The Exchange believes that the proposed pricing for Customer orders is equitable and not unfairly discriminatory because it would apply uniformly to all Customer transactions. Participants desiring the rebate offered by C2 can route orders directly in order to take advantage of the rebate. Market participants may submit orders to the Exchange as ineligible for routing or ''DNR'' to avoid Routing Fees.

Further, the Exchange believes that it is equitable and not unfairly discriminatory to assess a fixed cost of $0.05 per contract to route orders to NASDAQ OMX away markets (BX Options and NOM) because the cost, in terms of actual cash outlays, to the Exchange to route to those markets is lower. For example, costs related to routing to BX Options and NOM are lower as compared to other away markets because NOS is utilized by all three exchanges to route orders.[14] NOS and the three NASDAQ OMX options markets have a common data center and staff that are responsible for the day-to-day operations of NOS. Because the three exchanges are in a common data center, Routing Fees are reduced because costly expenses related to, for example, telecommunication lines to obtain connectivity are avoided when routing orders in this instance. The costs related to connectivity to route orders to other NASDAQ OMX exchanges are de minimis. When routing orders to non-NASDAQ OMX exchanges, the Exchange incurs costly connectivity charges related to telecommunication lines and other related costs when routing orders. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to pass along savings realized by leveraging NASDAQ OMX's infrastructure and scale to market participants when those orders are routed to BX Options and NOM. It is important to note with respect to routing to an away market that orders are routed based on price first.[15] The Exchange will route orders to away markets where the Exchange's disseminated bid or offer is inferior to the national best bid (best offer) (''NBBO'') price.[16]

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 not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the rule change would allow the Exchange to recoup its costs when routing orders designated as available for routing by the market participant to C2. Participants may choose to mark the order as ineligible for routing to avoid incurring these fees.[17] Today, other options exchanges also assess similar fees to recoup costs incurred by the Exchange to route orders to away markets. The Exchange routes orders to away markets where the Exchange's disseminated bid or offer is inferior to the national best bid (best offer) (''NBBO'') price and based on price first.[18]

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, the fees that are assessed by the Exchange must remain competitive with fees charged by other venues and therefore must continue to be reasonable and equitably allocated to those Participants that opt to direct orders to the Exchange rather than competing venues.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[19] 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 No. SR–BX–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 No. SR–BX–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

[14] *See* Chapter VI, Section 11 of the NASDAQ and BX Options Rules and Phlx Rule 1080(m)(iii)(A).

[15] *See* BX Rules at Chapter XII (Options Order Protection and Locked and Crossed Market Rules).

[16] *See* BX Rules at Chapter VI, Section 11(e) (Order Routing).

[17] *Id.*

[18] *See supra* note 15.

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

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 BX. 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 No. No. SR–BX–2013–017, and should be submitted on or before March 25, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–04857 Filed 3–1–13; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68987; File No. SR–MSRB–2013–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change Relating to Amendments to MSRB Rule G–39, on Telemarketing

February 26, 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 11, 2013, the Municipal Securities Rulemaking Board (''MSRB'') 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 substantially prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing with the Commission proposed amendments to MSRB Rule G–39, on telemarketing. The proposed rule change would adopt provisions that are substantially similar to the telemarketing rules of the Federal Trade Commission (''FTC'').

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2013-Filings.aspx,* at the MSRB'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 MSRB 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 MSRB 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

Summary of Proposed Rule Change. The MSRB proposes to amend Rule G–39, on telemarketing, to add provisions that are substantially similar to FTC rules that prohibit deceptive and other abusive telemarketing acts or practices.[3] Rule G–39 currently requires brokers, dealers, and municipal securities dealers (''dealers'') to, among other things, maintain do-not-call lists and limit the hours of telephone solicitations. In 1996, the SEC directed the MSRB to enact a telemarketing rule in accordance with the Prevention Act.[4] The Prevention Act requires the Commission to promulgate, or direct any national securities exchange or registered securities association to promulgate, rules substantially similar to the FTC rules to prohibit deceptive and other abusive telemarketing acts or practices, unless the Commission determines either that the rules are not necessary or appropriate for the protection of investors or the maintenance of fair and orderly markets, or that existing federal securities laws or Commission rules already provide for such protection.[5]

In 1997, the SEC determined that telemarketing rules promulgated and expected to be promulgated by self-regulatory organizations, together with the other rules of the self-regulatory organizations, the federal securities laws, and the SEC's rules thereunder, satisfied the requirements of the Prevention Act because, at the time, the applicable provisions of those laws and rules were substantially similar to the Telemarketing Sales Rule.[6] Since 1997, the FTC has amended its telemarketing rules in light of changing telemarketing practices and technology.[7]

In May 2011, Commission staff directed the MSRB to conduct a review of its telemarketing rule and propose rule amendments that provide protections that are at least as strong as those provided by the FTC's telemarketing rules.[8] Commission staff had concerns ''that the [self-regulatory organization] rules overall have not kept pace with the FTC's rules, and thus may no longer meet the standards of the Prevention Act.'' [9]

The proposed rule amendments, as directed by the Commission staff, would amend and adopt provisions in Rule G–

[3] The FTC initially adopted its rules prohibiting deceptive and other abusive telemarketing acts or practices (the ''Telemarketing Sales Rule,'' codified at 16 CFR 310.1–9) in 1995 under the Telemarketing and Consumer Fraud and Abuse Prevention Act (''Prevention Act'') codified at 15 U.S.C. 6101–6108. *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842 (Aug. 23, 1995). The Telemarketing Sales Rule has been amended since 1995, prompting the SEC's request for the MSRB to review its telemarketing rule. *See* amendments cited *infra* note 7.

[4] *See* Prevention Act *supra* note 3.

[5] *See* 15 U.S.C. 6102.

[6] *See Telemarketing and Consumer Fraud and Abuse Prevention Act; Determination that No Additional Rulemaking Required,* Securities Exchange Act Release No. 38480 (Apr. 7, 1997), 62 FR 18666 (Apr. 16, 1997). The Commission also determined that some provisions of the FTC's telemarketing rules related to areas already extensively regulated by existing securities laws or activities not applicable to securities transactions. *Id.* at 62 FR 18667–69.

[7] *See, e.g.,* FTC, *Telemarketing Sales Rule,* 73 FR 51164 (Aug. 29, 2008) (amendments to the Telemarketing Sales Rule relating to prerecorded messages and call abandonments); and FTC, *Telemarketing Sales Rule,* 68 FR 4580 (Jan. 29, 2003) (amendments to the Telemarketing Sales Rule establishing requirements for, among other things, sellers and telemarketers to participate in the national do-not-call registry).

[8] *See* Letter from Robert W. Cook, Director, Division of Trading and Markets, SEC, to Michael G. Bartolotta, then Chairman of the Board of Directors of the MSRB, dated May 10, 2011 (the ''Cook Letter''). SEC staff also asked the MSRB to coordinate with the Financial Industry Regulatory Authority (''FINRA'') regarding proposed telemarketing rule amendments.

[9] *Id.*

39 that the MSRB believes would be substantially similar to the FTC's current rules that prohibit deceptive and other abusive telemarketing acts or practices as described below.[10]

General Telemarketing Requirements

Proposed Rule G–39(a)(iv) would remind dealers that engage in telemarketing that they are also subject to the requirements of relevant state and federal laws and rules, including the Prevention Act, the Telephone Consumer Protection Act,[11] and the rules of the Federal Communications Commission relating to telemarketing practices and the rights of telephone consumers.[12]

Maintenance of Do-Not-Call Lists

Proposed Rule G–39(d)(vi) would maintain the requirement in MSRB Rule G–39 that a broker, dealer, or municipal securities dealer making telemarketing calls must maintain a record of a caller's request not to receive further calls. The amendment, however, would delete the requirement that a dealer honor a firm-specific do-not-call request for five years from the time the request is made. Commission staff directed the MSRB to delete this provision because the time for which the firm-specific opt-out must be honored under the FTC's Telemarketing Sales Rule [13] is indefinite, rather than five years as currently provided in Rule G–39.[14] Additionally, the proposed rule change would clarify that the record of do-not-call requests must be permanent.

Outsourcing Telemarketing

MSRB Rule G–39(f) would continue to state that, if a dealer uses another entity to perform telemarketing services on its behalf, the dealer remains responsible for ensuring compliance with all provisions contained in the rule. The proposed revisions would clarify that dealers must consider whether the entity or person that a dealer uses for outsourcing, is appropriately registered or licensed, where required.

Caller Identification Information

Proposed Rule G–39(g) would provide that dealers engaging in telemarketing must transmit caller identification information[15] and are explicitly prohibited from blocking caller identification information. The telephone number provided would have to permit any person to make a do-not-call request during regular business hours. These provisions are similar to the caller identification provision in the FTC rules.[16]

Unencrypted Consumer Account Numbers

Proposed Rule G–39(h) would prohibit a dealer from disclosing or receiving, for consideration, unencrypted consumer account numbers for use in telemarketing. The MSRB believes that this proposed provision would be substantially similar to the FTC's provision regarding unencrypted consumer account numbers.[17] The FTC provided a discussion of the provision when it was adopted pursuant to the Prevention Act.[18] Additionally, the proposed rule change would define ''unencrypted'' to include not only complete, visible account numbers, whether provided in lists or singly, but also encrypted information with a key to its decryption. The MSRB believes that the proposed definition is substantially similar to the approach taken by the FTC.[19]

Submission of Billing Information

Proposed Rule G–39(i) would provide that, for any telemarketing transaction, a dealer must obtain the express informed consent of the person to be charged and to be charged using the identified account. If the telemarketing transaction involves preacquired account information [20] and a free-to-pay conversion [21] feature, the dealer would have to: (1) Obtain from the customer, at a minimum, the last four digits of the account number to be charged; (2) obtain from the customer an express agreement to be charged and to be charged using the identified account number; and (3) make and maintain an audio recording of the entire telemarketing transaction. For any other telemarketing transaction involving preacquired account information, the dealer would have to: (1) Identify the account to be charged with sufficient specificity for the customer to understand what account will be charged; and (2) obtain from the customer an express agreement to be charged and to be charged using the identified account number. The MSRB believes that these proposed provisions would be substantially similar to the FTC's provision regarding the submission of billing information.[22] The FTC provided a discussion of the provision when it was adopted.[23] Although the MSRB expressed the view that some of these provisions may not be directly applicable to securities transactions generally, and, more specifically, municipal securities transactions, SEC staff suggested that the MSRB substantially conform the proposed rule to FINRA's telemarketing rule, which includes similar provisions.[24]

Abandoned Calls

Proposed Rule G–39(j) would prohibit a dealer from abandoning [25] any outbound telephone call. The abandoned calls prohibition would be subject to a ''safe harbor'' under proposed subparagraph (j)(ii) that would require the dealer: (1) To employ technology that ensures abandonment of no more than three percent of all calls answered by a person, measured over the duration of a single calling campaign, if less than 30 days, or separately over each successive 30-day period or portion thereof that the campaign continues; (2) for each outbound telephone call placed, to allow the telephone to ring for at least 15 seconds or four rings before disconnecting an unanswered call; (3) whenever a dealer is not available to speak with the person answering the outbound telephone call within two seconds after the person's completed greeting, to promptly play a recorded message stating the name and telephone

[10] The MSRB believes that proposed amended Rule G–39 also would be similar in most material respects to FINRA Rule 3230 (Telemarketing). The material differences between FINRA Rule 3230 and proposed Rule G–39 are described below.

[11] *See* 47 U.S.C. 227.

[12] *See* 47 CFR 64.1200.

[13] *See* 16 CFR 310.4.

[14] *See* the Cook Letter.

[15] Caller identification information includes the telephone number and, when made available by the broker, dealer, or municipal securities dealer's telephone carrier, the name of the broker, dealer, or municipal securities dealer.

[16] *See* 16 CFR 310.4(a)(8); *see also* FINRA Rule 3230(g).

[17] *See* 16 CFR 310.4(a)(6); *see also* FINRA Rule 3230(h).

[18] *See* FTC, *Telemarketing Sales Rule,* 68 FR 4580, 4615–16 (Jan. 29, 2003).

[19] *See Id.* at 4616.

[20] The term ''preacquired account information'' would mean any information that enables a dealer to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged. *See* proposed Rule G–39(n)(xix).

[21] The term ''free-to-pay conversion'' would mean, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period. *See* proposed Rule G–39(n)(xiii).

[22] *See* 16 CFR 310.4(a)(7); *see also* FINRA Rule 3230(i).

[23] *See* FTC, *Telemarketing Sales Rule,* 68 FR 4580, 4616–23 (Jan. 29, 2003).

[24] *See* FINRA Rule 3230(i). *See also* the Cook Letter.

[25] Under the proposed amended rule, an outbound call would be ''abandoned'' if a called person answers it and the call is not connected to a dealer within two seconds of the called person's completed greeting.

number of the dealer on whose behalf the call was placed; and (4) to maintain records establishing compliance with the ''safe harbor.'' The MSRB believes that these proposed provisions would be substantially similar to the FTC's provisions regarding abandoned calls.[26] The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act.[27]

Prerecorded Messages

Proposed Rule G–39(k) would prohibit a broker, dealer, or municipal securities dealer from initiating any outbound telephone call that delivers a prerecorded message without a person's express written agreement [28] to receive such calls. The proposed rule change also would require that all prerecorded outbound telephone calls provide specified opt-out mechanisms so that a person can opt out of future calls. The prohibition would not apply to a prerecorded message permitted for compliance with the ''safe harbor'' for abandoned calls under proposed subparagraph (j)(ii). The MSRB believes that the proposed provisions would be substantially similar to the FTC's provisions regarding prerecorded messages.[29] The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act.[30]

Credit Card Laundering

Except as expressly permitted by the applicable credit card system, proposed Rule G–39(l) would prohibit a dealer from: (1) Presenting to or depositing into, the credit card system [31] for payment, a credit card sales draft [32] generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder [33] and the dealer; [34] (2) employing, soliciting, or otherwise causing a merchant,[35] or an employee, representative or agent of the merchant, to present to or to deposit into the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or (3) obtaining access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement [36] or the applicable credit card system. The MSRB believes that these proposed provisions would be substantially similar to the FTC's provisions regarding credit card laundering.[37] The FTC provided a discussion of the provisions when they were adopted pursuant to the Prevention Act.[38] Although the MSRB expressed the view that some of these provisions may not be directly applicable to securities transactions generally, and, more specifically, municipal securities transactions, SEC staff suggested that the MSRB substantially conform the proposed rule to FINRA's telemarketing rule, which includes these provisions.[39]

Exemption

Proposed Rule G–39(m) would exempt business-to-business calls from most of the provisions of the amended rule. Specifically, the exemption would provide that outbound telephone calls from a dealer to a business entity, government, or political subdivision, agency, or instrumentality of a government are exempt from the rule, other than sections (a)(ii) and (d)(i)(iii), (v) and (vi). The sections of the proposed rule that would still apply to business-to-business calls relate to the firm-specific do-not-call list and procedures related to (i) maintaining a do-not-call list, (ii) training personnel on the existence and use of the do-not-call list, (iii) the recording and honoring of do-not-call requests, (iv) application to affiliated persons or entities, and (v) maintenance of do-not-call lists. FINRA's telemarketing rule, Rule 3230, does not include an express exemption for business-to-business calls.[40] The FTC's Telemarketing Sales Rule, however, includes an exemption from all of its provisions for telephone calls between a telemarketer and any business, with a caveat that most of the rule continues to apply to sellers and telemarketers of nondurable office or cleaning supplies.[41]

When initially adopting the exception for business-to-business calls, the FTC indicated that it believed Congress did not intend that every business use of the telephone be covered by the FTC's Telemarketing Sales Rule.[42] The only type of business-to-business calls that are subject to the Telemarketing Sales Rule are calls to induce the retail sale of nondurable office or cleaning

[26] *See* 16 CFR 310.4(b)(1)(iv) and (b)(4); *see also* FINRA Rule 3230(j) (Throughout FINRA Rules 3230(j) and (k), referred to in note 29 *infra,* FINRA uses the term ''telemarketing call'' where the proposed MSRB rule would use the term ''outbound telephone call.'' The MSRB believes that its proposed terminology is substantially similar because proposed MSRB Rule G–39(n)(xvi) defines ''outbound telephone call'' as a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution from a donor).

[27] *See* FTC, *Telemarketing Sales Rule,* 68 FR 4580, 4641 (Jan. 29, 2003).

[28] The express written agreement would have to: (a) Have been obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the dealer to place prerecorded calls to such person; (b) have been obtained without requiring, directly or indirectly, that the agreement be executed as a condition of opening an account or purchasing any good or service; (c) evidence the willingness of the called person to receive calls that deliver prerecorded messages by or on behalf of the dealer; and (d) include the person's telephone number and signature (which may be obtained electronically under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, *et seq.* (''E-Sign Act'')).

[29] *See* 16 CFR 310.4(b)(1)(v); *see also* FINRA Rule 3230(k).

[30] *See* FTC, *Telemarketing Sales Rule,* 73 FR 51164, 51165 (Aug. 29, 2008).

[31] The term ''credit card system'' would mean any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system. The term ''credit card'' would mean any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit. The term ''credit'' would mean the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment. *See* proposed Rules G–39(n)(vii), (viii), and (x).

[32] The term ''credit card sales draft'' would mean any record or evidence of a credit card transaction. *See* proposed Rule G–39(n)(ix).

[33] The term ''cardholder'' would mean a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued. *See* proposed Rule G–39(n)(vi).

[34] The Commission staff asked the MSRB to remind its registrants that extending or arranging for the extension of credit to purchase securities raises a number of issues under the federal securities laws, including whether the person extending or arranging credit needs to register as a broker-dealer.

[35] The term ''merchant'' would mean a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution. *See* proposed Rule G–39(n)(xiv). The term ''acquirer'' would mean a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value. *See* proposed Rule G–39(n)(ii). A ''charitable contribution would mean ''charitable contribution'' means any donation or gift of money or any other thing of value, for example a transfer to a pooled income fund. *See* proposed Rule G–39(n)(iii).

[36] The term ''merchant agreement'' would mean a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution. *See* proposed Rule G–39(n)(xv).

[37] *See* 16 CFR 310.3(c); *see also* FINRA Rule 3230(l).

[38] *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842, 43852 (Aug. 23, 1995).

[39] *See* FINRA Rule 3230(l). *See also* the Cook Letter.

[40] *See* FINRA Rule 3230.

[41] *See* 16 CFR 310.6(b)(7).

[42] *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842, 43861 (Aug. 23, 1995).

supplies.[43] Sellers of these products are treated differently because the FTC believes that the conduct prohibitions and affirmative disclosures mandated by the Telemarketing Sales Rule ''are crucial to protect businesses—particularly small businesses and nonprofit organizations—from the harsh practices of some unscrupulous sellers of these products.[44] Additionally, the FTC's enforcement experience against deceptive telemarketers indicated that office and cleaning supplies had been ''by far the most significant business-to-business problem area[.]''§ [45] When adopting its Telemarketing Sales Rule in 1995, the FTC indicated that it would consider expanding the list of business-to-business telemarketing activities excluded from the exemption if additional business-to-business telemarketing activities became problems after the Telemarketing Sales Rule became effective.[46] To date, however, the only type of business-to-business telemarketing activity that is excluded from the exemption is the retail sale of nondurable office or cleaning supplies.

The MSRB believes that exempting business-to-business calls pertaining to municipal securities from Rule G–39 would be consistent with the FTC's general approach to exempting business-to-business calls because, unlike sellers of nondurable office or cleaning supplies, dealers are subject to an entire regulatory regime, which includes the federal securities laws, the fair practice rules of the MSRB, and examinations and enforcement by FINRA, banking regulators and the SEC. Nevertheless, the provisions of proposed Rule G–39 pertaining to the firm-specific do-not-call list and related procedures would apply to business-to-business calls. Dealers are already required to maintain a firm-specific do-not-call list for requests that are not related to business-to-business calls; therefore, the MSRB believes that requiring such a list with respect to business-to-business calls would not create an undue burden. Moreover, the MSRB believes that it would be reasonable to require dealers to honor the wishes of businesses that do not wish to be solicited by telephone by requiring dealers to maintain a list of such do-not-call requests. The MSRB believes that this approach also would be consistent with FINRA's telemarketing rule and related guidance.[47]

Definitions

Proposed Rule G–39(n) would include the following definitions, which the MSRB believes would be substantially similar to the corresponding definitions in the FTC's Telemarketing Sales Rule:[48] ''acquirer,'' ''billing information,'' ''caller identification service,'' ''cardholder,'' ''charitable contribution,'' ''credit,'' ''credit card,'' ''credit card sales draft,'' ''credit card system,'' ''customer,'' ''donor,'' ''free-to-pay conversion,'' ''merchant,'' ''merchant agreement,'' ''outbound telephone call,'' ''preacquired account information'' and ''telemarketer.''[49] Additionally, the proposed rule change would delete the reference to ''telephone solicitation.'' The FTC provided a discussion of each of these definitions when it adopted them pursuant to the Prevention Act.[50]

Proposed Rule G–39(n) also would include definitions of ''person'' and ''telemarketing'' that differ substantively from the FTC's and FINRA's definitions of these terms. While the definition of ''person'' in proposed MSRB Rule G–39(n)(xvii) tracks the definition in the FTC and FINRA rules to include any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity, it further defines a ''person'' to include a government, or political subdivision, agency, or instrumentality of a government. These entities are included in the proposed definition because dealers often solicit these types of entities. While the MSRB believes that the proposed definition of ''telemarketing'' would be substantially similar to the definitions in the FTC and FINRA rules, its scope would be limited in MSRB Rule G–39(n)(xxi) to calls ''pertaining to municipal securities or municipal financial products'' since the MSRB only promulgates rules pertaining to the municipal securities activities of dealers. The MSRB intends the limitation in the definition to correspond with the limits of the MSRB's rulemaking authority. As described earlier, the MSRB has implemented rules to address sales practices by dealers that cover their municipal securities activities, including sales by telephone.

Technical and Conforming Changes

The proposed revisions to MSRB Rule G–39 would make a number of minor technical and conforming changes. First, the proposed revisions would amend Rule G–39 to delete the phrase ''or person associated with a broker, dealer or municipal securities dealer'' throughout the rule since associated persons are included in the definition of ''broker, dealer or municipal securities dealer'' in the MSRB rules.[51] Second, the proposed revisions would renumber and make minor technical changes to the terms ''account activity,'' ''broker, dealer or municipal securities dealer of record,'' ''established business relationship,'' and ''personal relationship.'' Third, the proposed revisions would amend paragraphs (a), (b), (c), (c)(iv), and (e) by replacing the term ''telephone solicitation'' with the term ''outbound telephone call.'' Fourth, the proposed revisions would amend paragraphs (d)(iii), (d)(iv), and (d)(vi) by replacing the term ''telemarketing'' with the term ''outbound telephone.'' Fifth, the proposed revisions would update a reference to an ''established business relationship'' in subparagraph (a)(1)(A). Finally, the proposed rule change would amend paragraph (b)(ii) to clarify that a signed, written agreement may be obtained electronically under the E-Sign Act.

The MSRB requests an effective date for the proposed rule change of 90 days following the date of SEC approval.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[52] which provides that the MSRB's rules shall

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products,

[43] *See* 16 CFR 310.6(b)(7).

[44] *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842, 43862 (Aug. 23, 1995).

[45] *Id.* at 43861.

[46] *Id.*

[47] *See* FINRA Rule 3230; *see also* FINRA guidance dated November 1, 1995, *Requirements of member firms in maintaining do-not-call lists under NASD Rule 3110* (''[M]embers who are involved in telemarketing, and whom make cold calls to the public, [must] * * * establish and maintain a do-not-call list notwithstanding whether [the member] contact[s] businesses or residences'').

[48] The MSRB believes that these definitions are also substantially similar to definitions in FINRA Rule 3230, with the exception of ''telemarketer,'' which is not defined in FINRA's rule.

[49] *See* proposed Rule G–39(n)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xiii), (xiv), (xv), (xvi), (xix), and (xx).

[50] *See* FTC, *Telemarketing Sales Rule,* 60 FR 43842, 43843 (Aug. 23, 1995) and FTC, *Telemarketing Sales Rule,* 68 FR 4580, 4587 (Jan. 29, 2003).

[51] *See* MSRB Rule D–11 which states: ''Unless the context otherwise requires or a rule of the Board otherwise specifically provides, the terms 'broker,' 'dealer,' * * * 'municipal securities dealer,' * * * shall refer to and include their respective associated persons.''

[52] 15 U.S.C. 78o–4(b)(2)(C).

to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because the proposed rule change would prevent fraudulent and manipulative acts and protect investors and the public interest by continuing to prohibit dealers from engaging in deceptive and other abusive telemarketing acts or practices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the Prevention Act requires the Commission to promulgate, or direct any national securities exchange or registered securities association to promulgate, rules substantially similar to the FTC rules to prohibit deceptive and other abusive telemarketing acts or practices.

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 on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days of such date (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2013–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2013–02. 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 MSRB. 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–MSRB–2013–02 and should be submitted on or before March 25, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–04844 Filed 3–1–13; 8:45 am]

BILLING CODE 8011–01–P

[53] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13500 and #13501]

West Virginia Disaster #WV–00030

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of West Virginia dated 02/25/2013.

Incident: Hurricane Sandy.

Incident Period: 10/29/2012 through 11/10/2012.

Effective Date: 02/25/2013.

Physical Loan Application Deadline Date: 04/26/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 11/25/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Nicholas.

Contiguous Counties:

West Virginia: Braxton, Clay, Fayette, Greenbrier, Kanawha, Webster.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13500 8 and for economic injury is 13501 0.

The State which received an EIDL Declaration # is West Virginia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: February 25, 2013.

Karen G. Mills,

Administrator.

[FR Doc. 2013–04835 Filed 3–1–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13502 and #13503]

Louisiana Disaster #LA–00050

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–4102–DR), dated 02/22/2013.

Incident: Severe storms and flooding.

Incident Period: 01/08/2013 through 01/17/2013.

Effective Date: 02/22/2013.

Physical Loan Application Deadline Date: 04/23/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 11/22/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/22/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Acadia, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Jefferson, Livingston, Madison, Saint Landry, Vermilion.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.875
Non-Profit Organizations Without Credit Available Elsewhere ...	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere ...	2.875

The number assigned to this disaster for physical damage is 13502B and for economic injury is 13503B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–04834 Filed 3–1–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8213]

2012 Fiscal Transparency Report

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State hereby presents the findings from the 2012 Fiscal Transparency review process in its first annual Fiscal Transparency Report. This report describes the minimum standards of fiscal transparency developed by the Department of State, identifies the countries that did not meet the standard, and indicates whether those countries made progress toward meeting the standard.

FY 2012 Fiscal Transparency Report

The Department of State hereby presents the findings from the 2012 Fiscal Transparency review process in its first annual Fiscal Transparency Report. Fiscal transparency is a critical element of effective public financial management, helps build market confidence, and sets the stage for economic sustainability. Transparency also provides a window into government budgets for citizens of any country, allowing them to hold their leadership accountable. The International Monetary Fund defines fiscal transparency as ''the clarity, reliability, frequency, timeliness, and relevance of public fiscal reporting and the openness to the public of the government's fiscal policy-making process.''

For the United States, reviews of the fiscal transparency of countries that receive U.S. assistance via their central governments help to ensure that U.S. taxpayer money is used appropriately and creates a dialogue with governments to improve their fiscal performance, leading to greater macroeconomic stability and better development outcomes. This year, the Department assessed more than 140 countries that received or were considered for U.S. foreign assistance via their central governments.

The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (Div. I, Pub. L. 112–74) (SFOAA) prohibits U.S. assistance to the central government of any country that does not meet minimum standards of fiscal transparency, unless the Secretary of State determines that a waiver is important to the U.S. national interest. For countries that did not meet the minimum standards, the Department of State also determined whether those governments made progress toward meeting those standards.

This report describes the minimum standards of fiscal transparency developed by the Department of State, identifies the countries that did not meet the standard, and indicates whether those countries made progress toward meeting the standard.

Fiscal Transparency Review Process

The Department of State assessed fiscal transparency in more than 140 countries in which central governments were receiving U.S. foreign assistance. The Department examines whether countries meet minimum standards of fiscal transparency, and whether the country has made progress in meeting those standards. Progress on fiscal transparency often includes publishing adequate budget documents, improved monitoring, or more robust accounting procedures that detail expenditures.

The Department used information from U.S. embassies and consulates and international organizations such as the International Monetary Fund and multilateral development banks. U.S. diplomatic missions engaged with foreign government officials, nongovernmental and international organizations, and civil society to obtain information for these assessments.

Using this information, for countries that did not meet the standard, U.S. diplomatic missions developed and implemented actions plans to work with governments, international organizations, and nongovernmental organizations (NGOs) to improve the availability, reliability, and content of budget documentation. Such plans present short and long-term actions and goals that the foreign government can take, often with assistance from

multilateral institutions such as the World Bank and IMF already engaged in similar efforts, to improve budget transparency. Examples include implementing a financial management system to help provide internal controls, approving freedom of information legislation, funding NGOs to provide training on budget oversight, or coordinating with international organizations to monitor budget transparency issues.

Minimum Standards of Fiscal Transparency

The SFOAA provides that the minimum standards of fiscal transparency developed by the Department shall include standards for the public disclosure of budget documentation, including:

- Receipts and expenditures by ministry.
- Government contracts and licenses for natural resource extraction, to include bidding and concession allocation practices.

The fiscal transparency review process evaluated whether the central governments of countries receiving U.S. foreign assistance publicly disclosed budget documentation and related data, including receipts and expenditures by ministry. The review also assessed the existence and public disclosure of standards for government contracts and licenses for natural resource extraction, including bidding and concession allocation practices. To meet the minimum standards of fiscal transparency, budget data generally should be:

- *Substantially Complete:* Budget documents should provide a substantially full picture of a country's revenue streams, including natural resource revenues, and planned expenditures. Therefore, a published budget that does not include significant cash or non-cash resources, including foreign aid or the balances of special accounts or off-budget accounts, would not be considered transparent. This picture should include, in some fashion, financial results of state-owned enterprises. The review process recognizes that military and/or intelligence budgets are often not publicly available for national security reasons.
- *Reliable:* Budget documents and data should be reliable, meaning that they are timely and accurate. Actual receipts and expenditures should reasonably correlate to the budget plan. Significant departures from planned receipts and expenditures should be explained in supplementary budget documentation that is publicly disclosed in a timely manner.
- *Transparent:* ''Public disclosure'' is broadly interpreted to mean that the information is available on-line, at government offices or libraries, on request from the ministry, or for purchase (nominal fee) at a government office.

The Department recognizes that the specific circumstances and practices that undermine fiscal transparency differ between countries. The review process takes a tailored approach in evaluating countries to make a determination of whether or not the central government provides an adequate level of budget detail to enable participation, monitoring, and feedback from civil society groups.

Conclusions of Review Process

For fiscal year 2012, the Department reviewed more than 140 countries where central governments receive U.S. government assistance to determine which countries did not meet minimum transparency standards. Of those 140 countries, 34 were determined to be non-transparent; 32 of those non-transparent countries made progress in meeting the minimum standards of fiscal transparency.

The following table lists the 34 countries found non-transparent, including information on whether the Department made a determination of progress or no progress.

U.S. DEPARTMENT OF STATE FY 2012 FISCAL TRANSPARENCY REPORT PURSUANT TO THE DEPARTMENT OF STATE, FOREIGN OPERATIONS AND RELATED PROGRAMS APPROPRIATIONS ACT, 2012 (DIV. I, PUB. L. 112–74) (SFOAA)

Countries whose central governments received or were considered for SFOAA assistance assessed to be non-transparent	Progress	No progress
Afghanistan	X	
Algeria	X	
Angola	X	
Burma	X	
Cambodia	X	
Cameroon	X	
Central African Republic	X	
Chad	X	
Cote d'Ivoire	X	
Dominican Republic	X	
DRC	X	
Egypt	X	
Equatorial Guinea	X	
Ethiopia	X	
Gabon	X	
Guinea	X	
Guinea Bissau	X	
Haiti	X	
Kyrgyz Republic	X	
Lebanon	X	
Libya	X	
Nicaragua		X
Niger	X	
Saudi Arabia	X	
Somalia	X	
South Sudan	X	
Swaziland	X	
Suriname	X	
Tajikistan	X	

U.S. DEPARTMENT OF STATE FY 2012 FISCAL TRANSPARENCY REPORT PURSUANT TO THE DEPARTMENT OF STATE, FOREIGN OPERATIONS AND RELATED PROGRAMS APPROPRIATIONS ACT, 2012 (DIV. I, PUB. L. 112–74) (SFOAA)—Continued

Countries whose central governments received or were considered for SFOAA assistance assessed to be non-transparent	Progress	No progress
Turkmenistan	X	
Uzbekistan	X	
Vietnam	X	
Yemen		X
Zimbabwe	X	

Dated: February 15, 2013.

Thomas R. Nides,

Deputy Secretary of State for Management and Resources, Department of State.

[FR Doc. 2013–04914 Filed 3–1–13; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Delegation of Authority No. 347]

Delegation by the Secretary of State to the Assistant Secretary for Consular Affairs and the Deputy Assistant Secretary for Visa Services of the Authority To Make Findings of Extraordinary Circumstance for Aliens Who Remain in the United States Beyond Their Authorized Periods

By virtue of the authority vested in me as Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate to the Assistant Secretary for Consular Affairs and the Deputy Assistant Secretary for Visa Services, to the extent authorized by law, the authority under Immigration and Nationality Act (INA) section 222(g)(2)(B), 8 U.S.C. 1202(g)(2)(B), to make findings that extraordinary circumstances exist, relative to circumstances that may be confronted by one or more aliens, to ensure that the alien would not be denied admission by operation of section 222(g) on a subsequent application for admission, when they remained in the United States beyond their authorized period of stay.

Any act, executive order, regulation, or procedure subject to, or affected by, this delegation shall be deemed to be such act, executive order, regulation, or procedure as amended from time to time.

Notwithstanding this delegation of authority, the Secretary, the Deputy Secretary, the Deputy Secretary for Management and Resources, and the Under Secretary for Management may at any time exercise any authority or function delegated by this delegation of authority.

This delegation of authority shall be published in the **Federal Register**.

Dated: January 29, 2013.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2013–04915 Filed 3–1–13; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 8212]

Department of State Performance Review Board Members

In accordance with section 4314(c)(4) of 5 United States Code, the Department of State has appointed the following individuals to the Department of State Performance Review Board for Senior Executive Service members:

Dawn McCall, Chairperson, Coordinator, Office of International Information Programs, Department of State;

Gerard White, Deputy Assistant Secretary, Bureau of Conflict and Stabilization Operations, Department of State;

Bathsheba Crocker, Principal Deputy Director, Office of Policy Planning, Department of State.

Dated: February 25, 2013.

Linda Thomas-Greenfield,

Director General of the Foreign Service and Director of Human Resources, Department of State.

[FR Doc. 2013–04913 Filed 3–1–13; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Meeting: RTCA Program Management Committee

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

ACTION: Notice of RTCA Program Management Committee Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Program Management Committee.

DATES: The meeting will be held March 20, 2013, from 8:30 a.m.–1:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a Program Management Committee meeting. The agenda will include the following:

March 20, 2013

- Welcome and Introductions.
- Review/Approve Meeting Summary.
- Publication Consideration/Approval
  - Final Draft, New Document, *Guidelines for Verification and Validation of Aerodrome Mapping Databases (AMDB) Aerodrome Surface Routing Networks (ASRN) for Routing Application,* prepared by SC–217.
  - Final Draft, New Document, *Minimum Aviation System Performance Standards (MASPS) for the Aeronautical Mobile-satellite (R) Service (AMS(R)S),* prepared by SC–222.
  - Final Draft, Change 2 to DO–185B, *Minimum Operational Standards for Traffic Alert and Collision Avoidance System II (TCAS II),* prepared by SC–147.
  - Final Draft, Revised DO–300, *Minimum Operational Performance Standards (MOPS) for Traffic Alert and Collision Avoidance System II (TCAS II) Hybrid Surveillance,* prepared by SC–147.
- Integration and Coordination Committee (ICC)—Report
  - Review/Approve, *Aircraft System-level Installation Guidance (ASIG)*

Drafting Guide, prepared by the ICC.

- Inter-Special Committee Requirements Agreement (ISRA) Guidance- Process Review and Recommendations.

- Action Item Review
  - PMC Ad Hoc Report- Unmanned Aircraft Systems (UAS) Standards- Discussion- Proposed Terms of Reference.
- Discussion
  - SC–135—Environmental Testing—Discussion—Revised Terms of Reference.
  - SC–147—Traffic Alert & Collision Avoidance System—Discussion—Revised Terms of Reference.
  - SC–206—Aeronautical Information Services (AIS) Data Link—Discussion—Revised Terms of Reference.
  - SC–214—Standards for Air Traffic Data Communications Services—Discussion—Revised Terms of Reference.
  - SC–222—Inmarsat AMS(R)S—Discussion—Revised Terms of Reference
  - NAC—Status Update.
  - FAA Actions Taken on Previously Published Documents—Report.
  - Special Committees—Chairmen's Reports and Active Inter-Special Committee Requirements Agreements—Review.
  - European/EUROCAE Coordination—Status Update.
  - RTCA Award Nominations—Consideration/Approval.
- Other Business
- Schedule for Committee Deliverables and Next Meeting Date
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 27, 2013.

Paige Williams,

Management Analyst, NextGen, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2013–04880 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Intent To Grant Buy America Waiver to Illinois Department of Transportation To Use Three Non-Domestic Component Parts, in the Incremental Train Control System

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of intent to grant Buy America waiver.

SUMMARY: FRA is issuing this notice to advise the public that it intends to grant the Illinois Department of Transportation (''IDOT'') a waiver from FRA's Buy America requirement for the use of three component parts that are not produced in the United States for the Incremental Train Control System (''ITCS''). The three component parts included in IDOT's waiver request are: (1) An ethernet cable; (2) an omni directional antenna; and (3) a router/server combination. FRA believes a waiver is appropriate because off-the-shelf domestically produced components meeting the specific technical and design needs of the ITCS are not available, and custom-designed components are not ''reasonably available'' given the short timeframe associated with Positive Train Control (PTC) implementation and the low dollar value of the two components as installed on just twenty (20) locomotives, and only one router/server combination needed for the entire project. The total cost of the non-domestically produced components is approximately $20,000, out of the $2.5 million cost for the ITCS.

DATES: Written comments on FRA's determination to grant IDOT's Buy America waiver request should be provided to the FRA on or before March 19, 2013.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FRA–2012–0033. All electronic submissions must be made to the U.S. Government electronic site at *http://www.regulations.gov*. Commenters should follow the instructions below for mailed and hand-delivered comments.

(1) *Web Site: http://www.regulations.gov*. Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493–2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) *Hand Delivery:* Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Railroad Administration'' and include docket number FRA–2012–0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov*. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Ms. Linda Martin, Senior Attorney-Advisor, FRA Office of Chief Counsel, (202) 493–6062 or via email at *Linda.Martin@dot.gov*.

SUPPLEMENTARY INFORMATION: FRA is issuing this notice to advise the public that it intends to grant IDOT's request for a waiver from FRA's Buy America requirement, 49 U.S.C. 24405(a), for the use of three component parts, which are not produced in the United States in the Incremental Train Control System (''ITCS''). Comments may be submitted regarding this waiver request by the methods detailed in this notice. The letter granting IDOT's request provides as follows:

Joseph E. Shacter,
Director, Division of Public and Intermodal Transportation
Illinois Department of Transportation
100 West Randolph Street, Suite 6–600
Chicago, IL 60601

Re: Request for Waiver of Buy America Requirement

Dear Mr. Shacter:

This letter is in response to your September 26, 2012 request that the Illinois Department of Transportation (IDOT) be granted a waiver from the Federal Railroad Administration's (FRA) Buy America provision, at 49 U.S.C. 24405(a)(1), for use in the Incremental Train Control System (ITCS), of three

components that are not produced in the United States. For the following reasons, FRA is granting IDOT's Buy America waiver request.

In December 2010, IDOT and FRA entered into cooperative agreements to allow IDOT to complete the activities necessary to implement high-speed passenger rail service along Union Pacific Railroad's (UP) Chicago to St. Louis rail corridor. The project consists of six tasks encompassing infrastructure improvements, station improvements, acquiring rolling stock, communications, and program management. The overall grant for the Chicago-St. Louis High Speed Rail Corridor development is $1.142 billion.

The subject of this waiver is a project within the larger Chicago to St. Louis rail corridor development and pertains to the installation of certain signaling improvements on a demonstration segment between Dwight and Joliet, Illinois. The IDOT contracted with Amtrak, UP, and General Electric Train Systems (GETS) to build and supply onboard equipment to retrofit 20 locomotives with the ITCS for this demonstration. The total cost of the ITCS is $2.5 million.

The ITCS system is manufactured by GETS. The ITCS contains several ''end products''—the onboard equipment, the wayside equipment, and Amtrak's Departure Testing Center equipment. This means that the manufactured products, e.g., the cables, routers, air filtration system, power supplies, radios, antennae, displays, and sensors, which are assembled into each end product, are components and must be manufactured in the United States. The ITCS's three end products and the majority of their components are manufactured at various locations in the United States, including Grain Valley and Warrensburg, Missouri; Melbourne, Florida; and Chicago, Illinois. The three components included in IDOT's Buy America waiver request are: (1) an Ethernet Cable from INET–II Radio to Ethernet Switch; (2) a 900 MHz Omni-directional antenna; and (3) a RuggedComm RX–1000 router/server combination. The total cost of the non-domestically produced components is approximately $20,000, out of the $2.5 million cost for the ITCS.

Section 24405(a)(1) authorizes the Secretary of Transportation to obligate grant funds only if the steel, iron, and manufactured goods used in the project are produced in the United States. However, section 24405(a)(2) also permits the Secretary (delegated to the FRA Administrator) to waive the Buy America requirements if the Secretary finds that: (A) applying paragraph one would be inconsistent with the public interest; (B) the steel, iron, and goods manufactured in the United States are not produced in sufficient and reasonably available amount or are not of a satisfactory quality; (C) rolling stock or power train equipment cannot be bought or delivered to the United States within a reasonable time; or (D) including domestic material will increase the cost of the overall project by more than 25 percent.

The FRA believes a waiver is appropriate under 49 U.S.C. 24405(a)(2)(B) because off-the-shelf domestically produced components meeting the specific technical and design needs of the ITCS are not available. Moreover, custom-designed components are not ''reasonably available'' given the short timeframe associated with positive train control (PTC) implementation, low dollar value of the two components as installed on just 20 locomotives, and only one router/server combination is needed for the entire project. The manufacturer of the ITCS, General Electric Transportation Systems (GETS), estimates that it would cost more than $1 million and take approximately six months to one year to accomplish the redesign and testing of parts made by a domestic manufacturer, assuming one would come forth to do so. Additionally, the need to continue the revenue demonstration testing of the ITCS equipment, which is a PTC system that the Rail Safety Improvement Act of 2008 requires be installed on certain rail lines by December 31, 2015, is essential to continued progress toward implementing this important safety technology. The successful demonstration tests were conducted in October 2012, and any further delay could result in additional costs and risk that the PTC system may not be fully tested for implementation prior to the 2015 statutory deadline.

The FRA believes that such costs in both time and money make the components not ''reasonably available'' and, therefore, a waiver is appropriate. Pursuant to 49 U.S.C. 24405(a)(4), FRA will publish this letter granting IDOT's request in the **Federal Register** and provide notice of such findings and an opportunity for public comment after which this waiver will become effective. This waiver applies only to the ITCS as installed in the Chicago to St. Louis corridor passenger rail service demonstration segment between Dwight and Joliet and specifically because of the facts and time constraints associated with this limited demonstration project. Any future requests for waivers regarding the ITCS will not be granted without a specific showing that domestic products for that particular project are not reasonably available at the time any subsequent request is made and GETS has made significant good faith efforts to secure all domestic components for the ITCS. The FRA encourages GETS to use the services of the U.S. Department of Commerce's National Institute for Standards and Technology-Manufacturing Extension Partnership (NIST–MEP). The FRA and NIST–MEP have partnered to increase the domestic manufacturing base for rail rolling stock and rail infrastructure related products. The FRA can facilitate these discussions, as requested. Questions about this letter can be directed to Linda Martin, Senior Attorney-Advisor, at Linda.Martin@dot.gov or 202–493–6062.

Sincerely,

Joseph C. Szabo,
Administrator.

This **Federal Register** notice is issued in Washington, DC on *February 26, 2013.*

Melissa L. Porter,

Chief Counsel, Federal Railroad Administration.

[FR Doc. 2013–04894 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Innovative Technology Administration

Advisory Council on Transportation Statistics; Meeting

AGENCY: Research and Innovative Technology Administration (RITA), DOT.

ACTION: Notice.

This notice announces the cancellation of a meeting of the Advisory Council on Transportation Statistics (ACTS). The meeting was scheduled for Monday, March 4, 2013 from 8:30 a.m. to 4:00 p.m. E.S.T. in the DOT Conference Center at the U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC. The Bureau of Transportation Statistics (BTS) will reschedule the meeting for a future date. Currently, BTS is developing a draft agenda. The following is a summary of the draft meeting agenda: (1) USDOT welcome and introduction of Council Members; (2) Overview of prior meeting; (3) Discussion of performance measures; (4) Update on BTS data programs and future plans (5) Council Members review and discussion of BTS programs and plans; (6) Public Comments and

Closing Remarks. Participation is open to the public.

Questions about the agenda or possible agenda items may be emailed (*Courtney.Freiberg@dot.gov*) or submitted by U.S. Mail to: U.S. Department of Transportation, Research and Innovative Technology Administration, Bureau of Transportation Statistics, *Attention:* Courtney Freiberg, 1200 New Jersey Avenue SE., Room # E34–429, Washington, DC 20590, or faxed to (202) 366–3640.

Notice of this meeting is provided in accordance with the FACA and the General Services Administration regulations (41 CFR part 102–103) covering management of Federal advisory committees.

Issued in Washington, DC, on February 26, 2013.

Rolf Schmitt,

Deputy Director, Bureau of Transportation Statistics.

[FR Doc. 2013–04898 Filed 3–1–13; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF THE TREASURY

United States Mint

Citizens Coinage Advisory Committee; Public Meeting

ACTION: Notification of Citizens Coinage Advisory Committee March 11, 2013, Public Meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for March 11, 2013.

Date: March 11, 2013.

Time: 9:30 a.m. to 5:00 p.m.

Location: Conference Room A, United States Mint, 801 9th Street NW., Washington, DC 20220.

Subject: Review and consideration of themes for the 2014 Civil Rights Act of 1964 Commemorative Coin Program; review and consideration of candidate designs for the Raoul Wallenberg Congressional Gold Medal; review and consideration of candidate designs for the 2013 First Spouse Bullion Coin Program; and review and consideration of candidate reverse designs for the 2014 National Baseball Hall of Fame Commemorative Coin Program.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: William Norton, United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: February 22, 2013.

Richard A. Peterson,

Acting Director, United States Mint.

[FR Doc. 2013–04839 Filed 3–1–13; 8:45 am]

BILLING CODE 4810–37–P

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Federal Register

Vol. 78, No. 42

Monday, March 4, 2013

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FEDERAL REGISTER PAGES AND DATE, MARCH

13771–13998 1
13999–14154 4

CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandum of February 20, 2013 13997

7 CFR

7 13771
205 13776
761 13999
762 13999
905 13777

10 CFR

Proposed Rules:
431 14024

12 CFR

Proposed Rules:
234 14024

14 CFR

25 .....14005, 14007
97 .....14009, 14010
Proposed Rules:
25 13835
39 14029
71 .....13843, 14031, 14032

21 CFR

189 14012
700 14012
890 .....14013, 14015

25 CFR

11 14017

26 CFR

Proposed Rules:
57 14034

27 CFR

Proposed Rules:
9 14046

29 CFR

2520 13781
2560 13797
2571 13797

33 CFR

100 13811
165 13811

40 CFR

52 14020

44 CFR

Proposed Rules:
201 13844

46 CFR

Proposed Rules:
67 14053

47 CFR

54 13936
Proposed Rules:
73 14060

49 CFR

Proposed Rules:
571 13853

50 CFR

17 14022
648 13812
679 .....13812, 13813
Proposed Rules:
20 14060
622 14069

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

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