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FEDERAL REGISTER

Vol. 78 Wednesday,
No. 54 March 20, 2013

Pages 17069–17284

OFFICE OF THE FEDERAL REGISTER

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Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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Presidential Documents

Title 3—

The President

Proclamation 8940 of March 15, 2013

National Poison Prevention Week, 2013

By the President of the United States of America

A Proclamation

For more than 50 years, Americans have marked National Poison Prevention Week by highlighting the steps we can take to protect ourselves and our loved ones from accidental poisoning. This week, we carry that tradition forward by encouraging common-sense precautions and raising awareness about how to respond in a poison emergency.

Thanks to greater public awareness and stronger safeguards, we have dramatically reduced childhood death rates from accidental poisoning—but work remains. To keep our kids safe, parents and caregivers can take action by storing medicine and hazardous products out of their children's reach and removing unused or expired medications from their homes. Anyone who believes a child or loved one has been poisoned should call the National Poison Help Line immediately at 1–800–222–1222.

Today, the majority of unintentional poisoning deaths are caused by overdoses involving prescription drugs, including painkillers. As my Administration works to address this serious public health issue, all of us can take part by using, storing, and disposing of medications correctly, and by speaking out about drug misuse and abuse in our communities. For more resources on preventing drug overdose and other forms of poisoning, visit www.PoisonHelp.HRSA.gov. Information about safe drug disposal is available at www.DEAdiversion.USDOJ.gov.

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventative measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681) has authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim March 17 through March 23, 2013, as National Poison Prevention Week. I call upon all Americans to observe this week by taking actions to protect their families from hazardous household materials and misuse of prescription medicines.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of March, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

[FR Doc. 2013–06505
Filed 3–19–13; 8:45 am]
Billing code 3295–F3

Rules and Regulations

Federal Register

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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.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1160; Directorate Identifier 2012–NM–096–AD; Amendment 39–17381; AD 2013–05–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A330–200, –300, and –200 Freighter series airplanes; and all Airbus Model A340–200 and –300 series airplanes. This AD was prompted by a determination that the bonding lead from a certain isolation valve to a frame was too close to an electrical harness, which might cause chafing between the electrical harness and the associated bonding lead. This chafing could lead to a short circuit of the isolation valve and consequent non-closure of the isolation valve, which would prevent the air flow to be shut off in case of fire. This AD requires modifying the bonding lead installation of the isolation valve. We are issuing this AD to prevent such chafing, which could result in non-closure of the isolation valve in the event of a fire and consequent damage to the airplane and injury to its occupants.

DATES: This AD becomes effective April 24, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 24, 2013.

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 7, 2012 (77 FR 66764). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> It was noticed in production that the bonding lead from the isolation valve 283HN to Frame (FR) 64, between Stringer (STGR) 33 and STGR 34, was too close to the electrical harness 5871VB. The results of the technical investigations carried out by Airbus determined that this insufficient clearance may cause chafing between the electrical harness 5871VB and the associated bonding lead.
>
> This condition, if not corrected, could lead to a short circuit of the isolation valve and consequent non-closure of the isolation valve 283HN, which would prevent the air flow to be shut-off in case of fire, potentially resulting in damage to the aeroplane and injury to its occupants.
>
> For the reasons described above, this European Aviation Safety Agency (EASA) AD requires the installation of a new bonding bracket and new bonding lead at STGR33, between FR64 and FR65 introduced by Airbus modification (mod.) 201500, or mod. 201681 in production, or Airbus Service Bulletin (SB) A330–21–3165, SB A330–21–3160 or SB A340–21–4152 in service.
>
> In addition, for aeroplanes already modified in accordance with the instructions of Airbus SB A330–21–3165, SB A330–21–3160 or SB A340–21–4152 at original issue or Revision 01, it [this EASA AD] requires accomplishment of the additional work (additional wiring connected to the structure of the aeroplane).

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 66764, November 7, 2012) or on the determination of the cost to the public.

Actions Since the NPRM (77 FR 66764, November 7, 2012) Was Issued

Since the NPRM (77 FR 66764, November 7, 2012) was issued, Airbus has issued Mandatory Service Bulletin A330–21–3165, Revision 03, dated December 7, 2012 (for Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes); and Mandatory Service Bulletin A340–21–4152, Revision 03, dated December 7, 2012 (for Model A340–211, –212, –213, –311, –312, and –313 airplanes). No additional work is required by these revisions for airplanes modified by Airbus Mandatory Service Bulletin A330–21–3165, Revision 02, dated March 29, 2012; or Airbus Mandatory Service Bulletin A340–21–4152, Revision 02, dated March 29, 2012; as applicable.

We have changed paragraphs (g), (h), and (k) (which was identified as paragraph (j) in the NPRM (77 FR 66764, November 7, 2012)) of this AD to refer to Airbus Mandatory Service Bulletin A330–21–3165, Revision 03, dated December 7, 2012; and Airbus Mandatory Service Bulletin A340–21–4152, Revision 03, dated December 7, 2012. We also have added new paragraph (i) to this AD to give credit for actions accomplished before the effective date of this AD performed using previous service information and have re-identified subsequent paragraphs accordingly.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 66764, November 7, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 66764, November 7, 2012).

Costs of Compliance

We estimate that this AD will affect 58 products of U.S. registry. We also estimate that it will take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $66 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $33,408, or $576 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 66764, November 7, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–05–09 Airbus: Amendment 39–17381. Docket No. FAA–2012–1160; Directorate Identifier 2012–NM–096–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, all manufacturer serial numbers, except for airplanes on which Airbus modification 201500 has been embodied in production.

(2) Model A330–223F and –243F airplanes, all manufacturer serial numbers, except for airplanes on which Airbus modification 201681 has been embodied in production.

(3) Model A340–211, –212, –213, –311, –312, and –313 airplanes, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air conditioning.

(e) Reason

This AD was prompted by a determination that the bonding lead from a certain isolation valve to a frame was too close to an electrical harness, which might cause chafing between the electrical harness and the associated bonding lead. This chafing could lead to a short circuit of the isolation valve and consequent non-closure of the isolation valve, which would prevent the air flow to be shut off in case of fire. We are issuing this AD to prevent such chafing, which could result in non-closure of the isolation valve in the event of a fire and consequent damage to the airplane and injury to its occupants.

(f) Compliance

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

(g) Bonding Lead Installation Modification

Within 48 months after the effective date of this AD, modify the bonding lead installation of isolation valve 283HN, in accordance with the Accomplishment Instructions of the applicable service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) Airbus Mandatory Service Bulletin A330–21–3165, Revision 03, dated December 7, 2012 (for Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes).

(2) Airbus Mandatory Service Bulletin A330–21–3160, dated August 4, 2011 (for Model A330–223F and –243F airplanes).

(3) Airbus Mandatory Service Bulletin A340–21–4152, Revision 03, dated December 7, 2012 (for Model A340–211, –212, –213, –311, –312, and –313 airplanes).

(h) Bonding Lead Additional Work Modification

For airplanes that have already been modified prior to the effective date of this AD, as specified in Airbus Mandatory Service Bulletin A330–21–3165, dated September 27, 2011, or Mandatory Service Bulletin A330–21–3165, Revision 01, dated November 21, 2011; or Airbus Mandatory Service Bulletin A340–21–4152, dated September 27, 2011, or Airbus Mandatory Service Bulletin A340–21–4152, Revision 01, dated November 21, 2011: Within 48 months after the effective date of this AD, perform the ''Additional Work'' specified in the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–21–3165, Revision 03, dated December 7, 2012; or Airbus Mandatory Service Bulletin A340–21–4152, Revision 03, dated December 7, 2012; as applicable.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Airbus Mandatory Service Bulletin A330–21–3165, Revision 02, dated March 29, 2012; or Airbus Mandatory Service Bulletin A340–21–4152, Revision 02, dated March 29, 2012; as applicable; which are not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2012–0090, dated May 22, 2012, and the following service information, for related information.

(i) Airbus Mandatory Service Bulletin A330–21–3160, dated August 4, 2011.

(ii) Airbus Mandatory Service Bulletin A330–21–3165, Revision 03, dated December 7, 2012.

(iii) Airbus Mandatory Service Bulletin A340–21–4152, Revision 03, dated December 7, 2012.

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com*.

(l) Material Incorporated by Reference

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

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

(i) Airbus Mandatory Service Bulletin A330–21–3160, dated August 4, 2011.

(ii) Airbus Mandatory Service Bulletin A330–21–3165, Revision 03, dated December 7, 2012.

(iii) Airbus Mandatory Service Bulletin A340–21–4152, Revision 03, dated December 7, 2012.

(3) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com*; Internet *http://www.airbus.com*.

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

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–05836 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0641; Directorate Identifier 2011–NM–258–AD; Amendment 39–17378; AD 2013–05–06]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. This AD was prompted by reports of jamming/malfunctioning of the left-hand engine thrust control mechanism. This AD requires modifying the left-hand engine upper core-cowl. We are issuing this AD to prevent jamming/malfunctioning of the left-hand engine thrust control mechanism, which could lead to loss of control of the airplane.

DATES: This AD becomes effective April 24, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 24, 2013.

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

FOR FURTHER INFORMATION CONTACT: Mazdak Hobbi, Aerospace Engineer, Propulsion and Services Branch, ANE–173, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, NY 11590; telephone (516) 228–7330; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 21, 2012 (77 FR 37342). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> There have been several reported incidents of jamming/malfunctioning of the left hand (L/H) engine thrust control mechanism on the affected aeroplanes. The investigation has shown that an improperly stowed or dislodged upper core-cowl-door Hold Open Rod, can impede a Fuel Control Unit (FCU) function by obstructing the movement of the FCU actuating lever arm, hence rendering the L/H engine thrust control inoperable.
>
> Due to the engine's orientation, the subject FCU fouling is limited only to the L/H engine installation on the affected twin engine powered aeroplanes; however the potential hazard of any in-flight engine shut down caused by jammed engine fuel control lever is a safety concern that warrants mitigating action.
>
> In order to help alleviate the possibility of an in-flight engine shut down due to the subject fouling of the FCU lever by the core-cowl-door Hold Open Rod, Bombardier has issued three Service Bulletins to [modify the L/H engine upper core cowl by] install[ing] a new bracket at the L/H engine upper core-cowl-door location. This [Canadian] directive is issued to mandate the incorporation of the Service Bulletins 604–71–005, 601–0609 or 605–71–002, as applicable on the affected aeroplanes.

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

Comments

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

Request To Revise Unsafe Condition

Bombardier, Inc. requested that we revise the end of the unsafe condition sentence in the **SUMMARY** section and paragraph (e) of the NPRM (77 FR

37342, June 21, 2012) to say, ''which could lead to loss of thrust control of left hand engine'' instead of ''which could lead to loss of control of the airplane.'' Bombardier, Inc. provided no justification for this request.

We disagree with the request to revise the unsafe condition in this final rule because loss of thrust control of the left hand engine can lead to the loss of control of the airplane. We have not changed the AD in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 37342, June 21, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 37342, June 21, 2012).

Costs of Compliance

We estimate that this AD will affect 407 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $203 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $186,406, or $458 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 37342, June 21, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–05–06 Bombardier, Inc.: Amendment 39–17378. Docket No. FAA–2012–0641; Directorate Identifier 2011–NM–258–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2013.

(b) Affected ADs

None.

(c) Applicability

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

(1) Bombardier, Inc. Model CL–600–2A12 (CL–601) airplanes, serial numbers (S/Ns) 3001 through 3066 inclusive.

(2) Bombardier, Inc. Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, S/Ns 5001 through 5194 inclusive, 5301 through 5665 inclusive, and 5701 through 5884 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 71: Powerplant.

(e) Reason

This AD was prompted by reports of jamming/malfunctioning of the left-hand engine thrust control mechanism. We are issuing this AD to prevent jamming/malfunctioning of the left-hand engine thrust control mechanism, which could lead to loss of control 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) Modification

Within 36 months or 6,000 flight hours, whichever occurs first after the effective date of this AD: Modify the left-hand engine upper core-cowl, in accordance with the Accomplishment Instructions of the applicable service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) Bombardier Service Bulletin 601–0609, dated August 31, 2011 (for Model CL–600–2A12 airplanes having S/Ns 3001 through 3066 inclusive, and Model CL–600–2B16 airplanes having S/Ns 5001 through 5194 inclusive).

(2) Bombardier Service Bulletin 604–71–005, dated July 18, 2011 (for Model CL–600–2B16 airplanes having S/Ns 5301 through 5665 inclusive).

(3) Bombardier Service Bulletin 605–71–002, dated July 18, 2011 (for Model CL–600–2B16 airplanes having S/Ns 5701 through 5884 inclusive).

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this

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

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

(i) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–37, dated October 19, 2011, and the service bulletins specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD, for related information.

(1) Bombardier Service Bulletin 601–0609, dated August 31, 2011.

(2) Bombardier Service Bulletin 604–71–005, dated July 18, 2011.

(3) Bombardier Service Bulletin 605–71–002, dated July 18, 2011.

(j) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 601–0609, dated August 31, 2011.

(ii) Bombardier Service Bulletin 604–71–005, dated July 18, 2011.

(iii) Bombardier Service Bulletin 605–71–002, dated July 18, 2011.

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

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

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–05587 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1031; Directorate Identifier 2012–NE–31–AD; Amendment 39–17391; AD 2013–05–19]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd & Co KG (RRD) Tay 611–8 turbofan engines. This AD requires inspection and replacement, if necessary, of affected bolts. This AD was prompted by a quality review determination that bolts with reduced material properties may have been installed in some engines. We are issuing this AD to prevent uncontained turbine disc fracture and damage to the airplane.

DATES: This AD becomes effective April 24, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; email: *frederick.zink@faa.gov;* telephone: 781–238–7779; fax: 781–238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 13, 2012 (77 FR 67582). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information states:

The results of a recent quality review of low pressure turbine (LPT) stage 1 static air seal and high pressure turbine (HPT) stage 1 air seal support bolts identified that, before installation, those bolts may have not been inspected. As a consequence, bolts with reduced material properties may have been installed in some engines.

This condition, if not detected and corrected, could lead to failure of a bolt, potentially causing turbine disc fracture and release of high-energy debris, possibly resulting in damage to the aeroplane and/or injury to the occupants.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 67582, November 13, 2012). However, we changed paragraph (e) of this AD by removing the reporting requirement because that requirement is not necessary to correct the unsafe condition.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed (77 FR 67582, November 13, 2012).

Costs of Compliance

Based on the service information, we estimate that this AD affects about 20 engines of U.S. registry. We also estimate that it will take about 4 hours per product to comply with this AD. The average labor rate is $85 per hour. Required parts will cost about $1,848 per engine. Based on these figures, we estimate the cost of the AD on U.S. operators to be $43,760.

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–05–19 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–17391; Docket No. FAA–2012–1031; Directorate Identifier 2012–NE–31–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) Tay 611–8 turbofan engines, serial numbers 16245, 16256, 16417, 16418, 16584, 16585, 16639, 16640, 16701, 16702, 16813, 16814, 16853, 16854, 16879, 16880, 16898, 16905, 16906, 16911, 16923, 16935, and 16936, with a date of the last shop visit before December 8, 2006.

(d) Reason

This AD was prompted by a recent quality review determination that bolts with reduced material properties may have been installed in some engines. We are issuing this AD to prevent uncontained turbine disc fracture and damage to the airplane.

(e) Actions and Compliance

Unless already done, for engines with a date of the last shop visit before December 8, 2006, do the following actions:

(1) If engine cycles accumulated since the last engine shop visit is 5,400 cycles or more on the effective date of this AD, inspect the bolts installed in the low-pressure turbine (LPT) stage 1 static seal and high-pressure turbine (HPT) stage 1 air seal support within 100 engine cycles-in-service after the effective date of this AD.

(2) If engine cycles accumulated since the last engine shop visit is fewer than 5,400 cycles on the effective date of this AD, inspect the bolts installed in the LPT stage 1 static seal and HPT stage 1 air seal support before accumulating 5,500 engine cycles since the last engine shop visit.

(3) If you find any broken bolt, brown bolt, or bolt with a rough oxidized surface, then replace all bolts of the inspected engine flange with new bolts before further flight.

(f) Installation Prohibition

After the effective date of this AD, do not install any HPT module and/or LPT module into any engine, or any engine onto an airplane, unless the bolts have been inspected and replaced if necessary, as specified in paragraph (e) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

(2) Refer to European Aviation Safety Agency AD 2012–0163, dated August 28, 2012, and RRD Alert Service Bulletin TAY–72–A1696, Revision 1, dated June 11, 2012, for related information.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: 49 0 33–7086–1200 (direct 1016); fax: 49 0 33–7086–1212. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on March 7, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–06170 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0795; Directorate Identifier 2008–SW–53–AD; Amendment 39–17395; AD 2013–05–23]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS332C, L, and L1 helicopters to require a one-time inspection of the main rotor head (MRH) swash-plate upper bearing (bearing) for a non-smooth point (friction point). This AD was prompted by a report of the premature deterioration of the MRH bearing of the rotating star installed on a Model AS332L1 helicopter. The actions of this AD are intended to detect deterioration of the MRH bearing and to prevent overloading the scissor links which drive the main rotor system, failure of the scissors links, and subsequent loss of control of the helicopter.

DATES: This AD is effective April 24, 2013.

ADDRESSES: For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum

Drive, Grand Prairie, Texas 75053–4005; telephone (800) 232–0323; or at *http://www.eurocopter.com.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On July 30, 2012, at 77 FR 44509, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Eurocopter Model AS332C, L, and L1 helicopters with a certain MRH. That NPRM proposed to require inspecting the MRH bearing for a non-smooth point (friction point), and if there is a friction point in the bearing, then replacing the MRH with an airworthy MRH, or if there is not a friction point in the bearing, then further inspecting the grease expelled from the MRH swash-plate for metal particles. The NPRM also proposed to require that if there is a metal particle in the grease expelled from the MRH swash-plate, replacing the MRH with an airworthy MRH, or if there is not a metal particle in the grease, measuring the force required to rotate the MRH swash-plate and inspecting certain MRH swash-plate assemblies for vertical play in the bearing to determine the airworthiness of the MRH. The proposed requirements were intended to detect deterioration of the MRH bearing and to prevent overloading the scissor links which drive the main rotor system, failure of the scissors links, and subsequent loss of control of the helicopter.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, issued EASA Emergency AD No. 2008–0172–E, dated September 9, 2008 (EAD No. 2008–0172–E), to correct an unsafe condition for the Eurocopter Model AS 332 C, C1, L, and L1 helicopters, with an MRH, part number (P/N) 332A31–0001–05 or P/N 332A31–0001–06, having a serial number (S/N) of M172, M216, M261, M308, M547, M677, M811, or M936, and having ''logged less than 275 flight hours since the last overhaul or repair.'' EASA states that Eurocopter received a report of deterioration of an MRH bearing on an MRH that was installed on an AS 332 L1 helicopter. The AS 332 L1 helicopter had logged 72 flight hours since the last overhaul. EASA states that there was an onset of vibrations in flight and these vibrations were due to premature deterioration of the upper bearing of the MRH swash-plate. They state that this condition, if not corrected, ''could lead to failure of the scissors links and consequently to the control loss of the helicopter.''

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (77 FR 44509, July 30, 2012).

FAA's Determination

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

Related Service Information

Eurocopter has issued one Emergency Alert Service Bulletin (EASB) with two different numbers, both Revision 0, and both dated September 8, 2008: EASB No. 62.00.73 for Model AS332C, L, and L1 helicopters and non-FAA type certificated Model C1 helicopters; and EASB No. 62.00.30 for non-FAA type certificated Model 532 UC, AC, UL, AL, SC, and UE military helicopters. EASB No. 62.00.73 specifies checking for the absence of a friction point in the MRH bearing. If there is no friction point, EASB No. 62.00.73 specifies checking the condition of the grease in the swash-plate assembly by lubricating the swash-plate, rotating it by hand, and determining if the expelled grease contains traces of metal particles. If the expelled grease does not contain traces of metal particles, EASB No. 62.00.73 specifies checking the swash-plate ''rotation torque'' using a spring scale. If the rotation torque is less than 5.5 kg, EASB No. 62.00.73 specifies checking the bearing for vertical play. If there is a friction point, the expelled grease contains traces of metal particles, the rotation torque is equal to or greater than 5.5 kg, or there is vertical play in the bearing, EASB No. 62.00.73 specifies removing the MRH and sending it to an approved repair station. EASA classified this EASB as mandatory and issued EAD No. 2008–0172–E to ensure the continued airworthiness of these helicopters.

Differences Between This AD and the EASA AD

The EASA Emergency AD includes Model AS332C1 helicopters. This AD does not include this model helicopter since it is not type certificated in the U.S. The EASA AD does not include S/Ns M561, M859, M935, M938, and M942, whereas this AD does include those S/Ns. The EASA Emergency AD requires operators to comply with the requirements no later than the ''next last flight of the day.'' Our AD requires the actions to be accomplished within 5 hours TIS. Also, the EASA Emergency AD is applicable to the specified helicopters having logged less than 275 flight hours since the last overhaul or repair, whereas our AD only applies to the specified helicopters having less than 275 hours TIS since the last overhaul of the MRH.

Costs of Compliance

We estimate that this AD will affect 6 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. It will take approximately 1 work-hour per helicopter to accomplish the inspection of the MRH bearing for a friction point, inspection of the swash-plate grease for any metal particles, measurement of the swash-plate force to rotate, and inspection of the bearing for vertical play. It will take approximately 60 work-hours to replace the MRH. These actions will be accomplished at an average labor rate of $85 per work-hour. We estimate the parts cost of replacing an MRH will be approximately $20,000. Based on these figures, we estimate the total cost of this

AD on U.S. operators is $25,610, assuming that all affected helicopters are inspected and that one MRH in the fleet will need to be replaced.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–05–23 Eurocopter France (Eurocopter): Amendment 39–17395; Docket No. FAA–2012–0795; Directorate Identifier 2008–SW–53–AD.

(a) Applicability

This AD applies to Eurocopter Model AS332C, L, and L1 helicopters with a main rotor head (MRH), part number (P/N) 332A31–0001–05 or P/N 332A31–0001–06, with a serial number (S/N) M172, M216, M261, M308, M547, M561, M677, M811, M859, M935, M936, M938, or M942 installed; having less than 275 hours time-in-service (TIS) since the last overhaul of the MRH; certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as deterioration of the MRH swash-plate upper bearing (bearing), which could result in overloading the scissor links which drive the main rotor system, failure of the scissors links, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective April 24, 2013.

(d) Compliance

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

(e) Required Actions

Within 5 hours TIS:

(1) Inspect the MRH bearing for a non-smooth point (friction point) by rotating the MRH swash-plate and:

(i) If there is a friction point in the bearing, before further flight, replace the MRH with an airworthy MRH.

(ii) If there is not a friction point in the bearing, lubricate the MRH swash-plate and rotate it until grease is expelled; inspect the expelled grease for metal particles.

(A) If there is a metal particle in the grease, before further flight, replace the MRH with an airworthy MRH.

(B) If there is not a metal particle in the grease, measure the force required to rotate the MRH swash-plate using a spring scale attached to the pitch change rod attachment yokes.

(*1*) If the force to rotate the MRH swash-plate is equal to or greater than 5.5 kg, before further flight, replace the MRH with an airworthy MRH.

(*2*) If the force to rotate the MRH swash-plate is less than 5.5 kg, inspect the MRH swash-plate assembly for vertical play in the bearing. If there is vertical play in the bearing, before further flight, replace the MRH with an airworthy MRH.

(2) Before installing an MRH, P/N 332A31–0001–05 or P/N 332A31–001–06, with S/N M172, M216, M261, M308, M547, M561, M677, M811, M859, M935, M936, M938, or M942 on any helicopter, inspect the MRH in accordance with paragraph (e)(1) of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov*.

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

(g) Additional Information

(1) Eurocopter Emergency Alert Service Bulletin, No. 62.00.73, Revision 0, dated September 8, 2008, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005; telephone (800) 232–0323; or at *http://www.eurocopter.com*. You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in the European Aviation Safety Agency (France) Emergency AD No. 2008–0172–E, dated September 9, 2008.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6400, Tail Rotor System.

Issued in Fort Worth, Texas, on March 7, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–06132 Filed 3–19–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1167; Directorate Identifier 2012–NE–36–AD; Amendment 39–17396; AD 2013–06–01]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd & Co KG (RRD) models Tay 620–15 and Tay 650–15 turbofan engines. This AD was prompted by RRD recalculating the Declared Safe Cyclic Life (DSCL) for certain low-pressure compressor (LPC) rotor disc assemblies operating to the Plan D Flight Mission. This AD requires removing the affected LPC rotor disc assemblies at a new lower recalculated DSCL. We are issuing this AD to prevent failure of the LPC rotor disc assembly, uncontained engine failure, and damage to the airplane.

DATES: This AD becomes effective April 24, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *Frederick.zink@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 13, 2012 (77 FR 74123). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information states:

The Tay 650–15 and Tay 650–15/10 engine Time Limits Manual Chapter 05–10–01 contains maximum approved life limitations, identified as Declared Safe Cyclic Life (DSCL) for Low Pressure Compressor (LPC) rotor disc assemblies Part Number (P/N) JR31198A and P/N JR34563A operated to the Plan D Flight Mission, which has been recalculated to a lower value.

Decreased DSCL of LPC rotor disc assemblies P/N JR31198A and P/N JR34563A may affect these disc assemblies installed in Tay 650–15 and Tay 650–15/10 engines as well as in Tay 620–15 and Tay 620–15/20 engines.

Failure to take decreased DSCL of affected LPC rotor disc assemblies into account could lead to affected part failure and consequent release of high energy debris potentially resulting in damage to, and/or reduced control of, the aeroplane.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 74123, December 13, 2012).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed (77 FR 74123, December 13, 2012).

Costs of Compliance

We estimate that this AD will affect four engines installed on airplanes of U.S. registry. We also estimate that it will require four hours to perform the actions required by this AD. The average labor rate is $85 per hour. Prorated life for the disc assembly is approximately $650 per disc. Based on these figures, we estimate the cost of this AD on U.S. operators to be $3,960.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–06–01 Rolls-Royce Deutschland Ltd & Co KG (RRD) (formerly Rolls-Royce plc): Docket No. FAA–2012–1167; Directorate Identifier 2012–NE–36–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to RRD models Tay 620–15 and Tay 650–15 turbofan engines with a low-pressure compressor (LPC) rotor disc assembly, part number (P/N) JR31198A or P/N JR34563A, installed.

(d) Reason

This AD was prompted by RRD recalculating the Declared Safe Cyclic Life for certain LPC rotor disc assemblies operating to the Plan D Flight Mission. We are issuing this AD to prevent failure of the LPC rotor disc assembly, uncontained engine failure, and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following. For engines that have operated to the Plan D Flight Mission configuration, remove the LPC rotor disc assembly from service before accumulating 18,700 engine flight cycles. Do not return to service nor approve for return to service any engine with the affected discs installed that exceeds 18,700 engine flight cycles.

(f) Alternative Methods of Compliance (AMOCs)

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

(g) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *Frederick.zink@faa.gov.*

(2) Refer to European Aviation Safety Agency AD 2012–0204, dated October 1, 2012, and RRD Alert Service Bulletin TAY–72–A1772, dated August 9, 2012, for related information.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11 Dahlewitz 15827, Blankenfelde-Mahlow, Germany; phone: +49 0 33–7086–1944; fax: +49 0 33–7086–3276.

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

(h) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on March 8, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–06115 Filed 3–19–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1100; Directorate Identifier 2012–NE–29–AD; Amendment 39–17385; AD 2013–05–13]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd & Co KG (RRD) BR700–710 series turbofan engines. This AD requires replacement of the affected fuel pump splined couplings. This AD was prompted by service experience that demonstrated premature wear of the splined coupling on the fuel pump. We are issuing this AD to prevent failure of the engine and loss of the airplane.

DATES: This AD becomes effective April 24, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; email: *frederick.zink@faa.gov;* phone: 781–238–7779; fax: 781–238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 7, 2012 (77 FR 66771). That NPRM proposed to require replacement of the affected fuel pump splined couplings. The Mandatory Continuing Airworthiness Information states:

> In-service experience of RRD BR700–710 fuel pump installed on the rear face of the accessory gearbox identified premature wear of the splined coupling, which caused damage to the splined coupling.
>
> This condition, if not corrected, could lead to failure of engine fuel supply, likely resulting in an uncommanded in-flight shutdown and consequently reduced control of the aeroplane.

Comments

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

Request To Withdraw the AD

An anonymous commenter requested that the FAA withdraw the proposed rule (77 FR 66771, November 7, 2012). The commenter indicated that the rule is a ''waste of government resources'' because a service bulletin has been issued and larger companies and individuals will comply because it is in their best interest while smaller companies will ''suffer.''

We do not agree. We reviewed the service experience of the affected fuel pump splined couplings and determined that an unsafe condition exists and that corrective action is required. Although some operators may take corrective action based on the service bulletin, the issuance of an AD makes compliance mandatory for all. We made no change to the AD.

Change to Installation Prohibition Paragraph

We determined when reviewing the proposed rule (77 FR 66771, November 7, 2012), that the Installation Prohibition paragraph (g) was not consistent with the compliance paragraph (e). The Installation Prohibition paragraph in the NPRM forbids returning to service any engine with a fuel pump with an affected splined coupling that has accumulated 4,000 hours time in service (TIS). This prohibition is not consistent with compliance paragraph (e) which allows engines with affected spline couplings to be returned to service for those engines with 3,750 hours or more TIS, while allowing an additional 250 hours TIS to comply. The Installation Prohibition paragraph should have been directed against ''installing'' an affected fuel pump into an engine or installing an engine with an affected fuel pump into an aircraft rather than against returning an engine to service with an affected fuel pump.

The Installation Prohibition paragraph now reads: ''After the effective date of this AD, do not install into any engine a fuel pump with an affected splined coupling that has accumulated 4,000 hours TIS, or install any engine with an affected splined coupling that has accumulated 4,000 hours TIS onto an airplane.''

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects about 1,040 engines installed on airplanes of U.S. registry. We also estimate that it will take about 6 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $1,035 per engine. Based on these figures, we estimate the cost of this AD to U.S. operators to be $1,606,800.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–05–13 Rolls-Royce Deutschland Ltd & Co KG (Formerly Rolls-Royce Deutschland GmbH, and BMW Rolls-Royce plc): Amendment 39–17385; Docket No. FAA–2012–1100; Directorate Identifier 2012–NE–29–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) BR700–710A1–10 and BR700–710A2–20 turbofan engines, all serial numbers, and BR700–710C4–11 turbofan engines that have either of the following hardware configuration standards engraved on the engine data plate:

(1) Standard ''710C4–11''—RRD Alert Non-Modification Service Bulletin (NMSB) SB–BR700–72–101466 standard not incorporated, or

(2) Standard ''710C4–11/10''—RRD Alert NMSB SB–BR700–72–101466 standard incorporated.

(d) Reason

This AD was prompted by service experience that demonstrated premature wear of the splined coupling on the fuel pump. We are issuing this AD to prevent failure of the engine and loss of the airplane.

(e) Actions and Compliance

Unless already done, do the following.

(1) After the effective date of this AD, replace the fuel pump splined coupling as follows and every 4,000 hours time in service (TIS) thereafter:

(i) If the engine has 3,750 hours TIS or more on the effective date of this AD, within 250 hours TIS.

(ii) If the engine has less than 3,750 hours TIS on the effective date of this AD, before reaching 4,000 hours TIS.

(2) If you replaced the engine fuel pump splined coupling before the effective date of this AD, replace the fuel pump splined coupling before reaching 4,000 hours TIS since last replacement, or before further flight, whichever comes later.

(f) Installation Prohibition

After the effective date of this AD, do not install into any engine a fuel pump with an affected splined coupling that has accumulated 4,000 hours TIS, or install any engine with an affected splined coupling that has accumulated 4,000 hours TIS onto an airplane.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; email: *frederick.zink@faa.gov;* phone: 781–238–7779; fax: 781–238–7199.

(2) Refer to Mandatory Continuing Airworthiness Information AD No. 2012–0161, dated August 24, 2012, and RRD Alert NMSB SB–BR700–72–A900509, Revision 3, dated August 2, 2012, for related information.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: 49 0 33–7086–1883; fax: 49 0 33–7086–3276. You may view the service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on March 7, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–06114 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1006; Directorate Identifier 2012–NE–28–AD; Amendment 39–17392; AD 2013–05–20]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Turbojet Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd & Co KG (RRD) Spey 511–8 turbojet engines. This AD requires inspection and, if necessary, replacement of affected bolts and, if any bolt is found broken, inspection of the adjacent disc(s) for damage. This AD was prompted by a recent quality review determination that bolts with reduced material properties may have been installed in some engines. We are issuing this AD to prevent uncontained turbine disc fracture and damage to the airplane.

DATES: This AD becomes effective April 24, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 7, 2012 (77 FR 66769). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information states:

> The results of a recent quality review of low pressure turbine (LPT) support assembly, high pressure turbine (HPT) bearing support assembly and HPT air seal sleeve bolts identified that, before installation, those bolts are not subjected to a complete quality inspection. As a consequence, bolts with reduced material properties may have been installed in some engines.
>
> This condition, if not detected and corrected, could lead to failure of a bolt, potentially causing turbine disc fracture and release of high-energy debris, possibly resulting in damage to the aeroplane and/or injury to the occupants.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 66769, November 7, 2012).

However, we made editorial changes to paragraph (e) of this AD for clarification purposes. Paragraphs (e)(1) and (e)(2) were re-written to clearly define the drawdown for engines that have accumulated more then 4,500 engine cycles since the last engine shop visit on the effective date of the AD. If an engine had greater than 4,500 cycles since the last engine shop visit, paragraph (e)(1) of the NPRM (77 FR 66769, November 7, 2012) could be interpreted to mean that the actions were required before further flight. This is not the intent of the proposed rule. Paragraph (e)(2) of the NPRM specified that an inspection within 100 engine cycles was required for engines with greater than 4,400 cycles since last shop visit, but we determined that this could be confusing. We therefore changed paragraphs (e)(1) and (e)(2) in the final rule to:

(1) If engine cycles accumulated since the last engine shop visit are 4,400 cycles or more on the effective date of this AD, visually inspect the bolts installed in the low-pressure turbine (LPT) support assembly, high-pressure turbine (HPT) bearing support assembly, and HPT air seal sleeve within 100 engine cycles-in-service.

(2) If engine cycles accumulated since the last engine shop visit are fewer than 4,400 cycles on the effective date of this AD, visually inspect the bolts installed in the LPT support assembly, HPT bearing support assembly, and HPT air seal sleeve before accumulating 4,500 engine cycles since the last shop visit.

Paragraph (e) was also modified to clarify that the type of inspection required is a visual inspection. The NPRM only stated to ''inspect.''

Paragraph (e) was also modified by removing the reporting requirement, because that requirement is not necessary to correct the unsafe condition.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects about six engines installed on airplanes of U.S. registry. We also estimate that it will take about 2 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts will cost about $860 per engine. Based on these figures, we estimate the cost of the AD on U.S. operators to be $6,180.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–05–20 Rolls-Royce Deutschland Ltd & Co KG (formerly Rolls-Royce Deutschland GmbH, formerly Rolls-Royce plc): Amendment 39–17392; Docket No. FAA–2012–1006; Directorate Identifier 2012–NE–28–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) Spey 511–8 turbojet engines, serial numbers 8847, 8853, 8879, 8989, 8994, and 9817, with a date of the last shop visit before November 15, 2007.

(d) Reason

This AD was prompted by a recent quality review determination that bolts with reduced material properties may have been installed in some engines. We are issuing this AD to prevent uncontained turbine disc fracture and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following actions for engines with a date of the last shop visit before November 15, 2007:

(1) If engine cycles accumulated since the last engine shop visit are 4,400 cycles or more on the effective date of this AD, visually inspect the bolts installed in the low-pressure turbine (LPT) support assembly, high-pressure turbine (HPT) bearing support assembly, and HPT air seal sleeve within 100 engine cycles-in-service.

(2) If engine cycles accumulated since the last engine shop visit are fewer than 4,400 cycles on the effective date of this AD, visually inspect the bolts installed in the LPT support assembly, HPT bearing support assembly, and HPT air seal sleeve before accumulating 4,500 engine cycles since the last shop visit.

(3) If you identify any broken bolt, brown bolt, or bolt with a rough oxidized surface, replace all bolts of the inspected engine flange with new bolts before further flight.

(4) If you find any broken bolt in the LPT support assembly, visually inspect the LPT stage 2 disc for damage before further flight.

(5) If you find any broken bolt in the HPT shaft air seal sleeve, visually inspect the HPT stage 1 disc for damage before further flight.

(f) Installation Prohibition

After the effective date of this AD, do not install any LPT support assembly, HPT bearing support assembly, or HPT air seal sleeve into any engine, or any engine onto an airplane, unless the affected bolts have been inspected and replaced if necessary, and the LPT stage 2 disc and HPT stage 1 disc have been inspected if necessary, as specified in paragraph (e) of this AD.

(g) Definition

For the purpose of this AD, a shop visit is when the engine is inducted into the shop for any maintenance involving the separation of pairs of major mating engine flanges (lettered flanges). However, the separation of engine flanges solely for the purposes of transporting the engine without subsequent engine maintenance is not an engine shop visit.

(h) Alternative Methods of Compliance (AMOCs)

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

(i) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

(2) Refer to European Aviation Safety Agency AD 2012–0158, dated August 22, 2012, and RRD Alert Service Bulletin Sp72–A1068, for related information.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: 49 0 33–7086–1200 (direct 1016); fax: 49 0 33–7086–1212. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(j) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on March 7, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–06174 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0121; Airspace Docket No. 12–AAL–2]

Amendment of Class E Airspace; Scammon Bay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Scammon Bay Airport, Scammon Bay, AK. Controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Scammon Bay Airport. This action enhances the safety and management of aircraft operations at the airport.

DATES: Effective date, 0901 UTC, June 27, 2013. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On May 9, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking to modify controlled airspace at Scammon Bay, AK (77 FR 27146). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface, at Scammon Bay Airport, Scammon Bay, AK. Additional controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS) standard instrument approach procedures at Scammon Bay Airport and for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Scammon Bay Airport, Scammon Bay, AK.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Scammon Bay, AK [Modified]

Scammon Bay Airport, AK
(Lat. 61°50′40″ N., long. 165°34′25″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Scammon Bay Airport, and within 4 miles either side of the 099° bearing of Scammon Bay Airport extending from the 6.3-mile radius to 11 miles east of the airport; that airspace extending upward from 1,200 feet above the surface with a 73-mile radius of Scammon Bay Airport, AK.

Issued in Seattle, Washington, on March 12, 2013.

Vered Lovett,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–06299 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0768; Airspace Docket No. 12–ANM–22]

Establishment of Class E Airspace; Wilbur, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at, Wilbur, WA, to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Wilbur Airport. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective date, 0901 UTC, June 27, 2013. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On December 21, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish controlled airspace at Wilbur, WA (77 FR 75597). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface, at Wilbur Airport, to accommodate IFR aircraft executing new RNAV (GPS) standard instrument approach procedures at the airport. Controlled airspace is established within a 4-mile radius of the airport with a 6-mile extension southwest from the 4-mile radius for the safe operation of IFR aircraft to/from the en route environment.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Wilbur Airport, Wilbur, WA.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WA E5 Wilbur, WA [New]

Wilbur Airport, WA

(Lat. 47°45′12″ N., long. 118°44′38″ W.)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of Wilbur Airport and within 4 miles each side of the 216° bearing of Wilbur Airport extending from the 4-mile radius to 6 miles southwest of the airport.

Issued in Seattle, Washington, on March 8, 2013.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–06301 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2013–0178; Airspace Docket No. 13–ASO–1]

RIN 2120–AA66

Amendment of Multiple Restricted Areas; Eglin AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of the using agency for Restricted Areas R–2914A and B; R–2915A, B and C; R–2918; and R–2919A and B, with the Eglin Range Complex, FL, to read ''U.S. Air Force, Commander 96th Test Wing, Eglin AFB, FL. This is an administrative change only and does not affect the boundaries; designated altitudes; time of designation; or activities conducted within the affected restricted areas.

DATES: *Effective date:* 0901 UTC, May 2, 2013.

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

SUPPLEMENTARY INFORMATION:

Background

As a result of reorganization at Eglin AFB, FL, the name of the using agency for multiple restricted areas within the Eglin Range Complex was changed from ''Armament Center'' to ''Test Wing.'' This action is an administrative name change only and does not affect the current configuration or use of the restricted areas.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by amending the using agency name for Restricted Areas R–2914A and B; R–2915A, B and C; R–2918; and R–2919A and B, Eglin AFB, FL, from ''U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' to ''U.S. Air Force, Commander 96th Test Wing, Eglin AFB, FL.'' This is an administrative change to update the title of the using agency. It does not affect the boundaries, designated altitudes, or activities conducted within the restricted area; therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it makes an administrative change to the descriptions of Restricted Areas R–2914A and B; R–2915A, B and C; R–2918; and R–2919A and B, Eglin AFB, FL.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, paragraph 311d. This airspace action is an administrative change to the descriptions of the affected restricted area to update the using agency name. It does not alter the dimensions, altitudes, or times of designation of the airspace; therefore, it is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exists that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.29 [Amended]

■ 2. Section 73.29 is amended as follows:

1. R–2914A Valparaiso, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

2. R–2914B Valparaiso, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

3. R–2915A Eglin AFB, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

4. R–2915B Eglin AFB, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

5. R–2915C Eglin AFB, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

6. R–2918 Valparaiso, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

7. R–2919A Valparaiso, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

8. R–2919B Valparaiso, FL [Amended]

By removing the words ''Using agency. U.S. Air Force, Commander, Air Armament Center, Eglin AFB, FL,'' and inserting the words ''Using agency. U.S. Air Force, Commander, 96th Test Wing, Eglin AFB, FL''

Issued in Washington, DC, on March 14, 2013.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2013–06366 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

[Docket No. FDA–2013–N–0011]

Public Hearing Before a Public Advisory Committee; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations regarding advisory committees to address minor technical changes and corrections to statutory citations. This action is editorial in nature and is intended to provide accuracy and clarity to the Agency's regulations.

DATES: This rule is effective March 20, 2013.

FOR FURTHER INFORMATION CONTACT: Rosanne A. Hurwitz, Office of Special Medical Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5164, Silver Spring, MD, 20993–0002, 301–796–8866, *Rosanne.Hurwitz@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is amending 21 CFR part 14 to correct minor errors and inadvertent omissions in the Code of Federal Regulations (CFR), and to delete obsolete cross-references. Minor spelling errors were inadvertently published in the CFR when the regulations were first issued. In addition, amendments to the Federal Food, Drug, and Cosmetic Act and recodification of certain sections of the Public Health Service Act resulted in changes to several of the referenced statutes.

FDA is publishing the document as a final rule under the Administrative Procedures Act (5 U.S.C. 551, *et seq.*). FDA has determined that good cause exists to dispense with prior notice and public comment under 5 U.S.C. 553(b)(B) and 21 CFR 10.40(e) since such notice and comment are unnecessary because this amendment to the regulations provides only technical changes to correct minor errors and inadvertent omissions in the CFR, to update obsolete terms and citations, and to delete obsolete information. These changes are nonsubstantive and only editorial in nature. In addition, FDA finds good cause to provide for this regulation to be effective immediately upon publication under 5 U.S.C. 553(d).

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Foods, Medical Devices, Radiation protection, and Tobacco Control.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

■ 1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: 5 U.S.C. App. 2; 15 U.S.C. 1451–1461, 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264; Pub. L. 107–109; Pub. L. 108–155.

PART 14 [AMENDED]

■ 2. Part 14 is amended by removing the words ''the Board of Tea Experts'' wherever they appear; by removing the word ''chairman'' wherever it appears and adding in its place ''Chairperson''; by removing the word ''chairman's'' wherever it appears and adding in its place ''Chairperson's''; by removing the phrase ''the act'' and adding in its place ''the FD&C Act''; and by removing the word ''executive secretary'' wherever it appears and adding in its place ''Designated Federal Officer.''

■ 3. Amend § 14.1 by revising paragraphs (a) introductory text, (a)(2)(vii), and (f) to read as follows:

§ 14.1 Scope.

(a) This part governs the procedures when any of the following applies:

* * * * *

(2) * * *

(vii) Section 514(b)(5) of the FD&C Act on establishment, amendment, or revocation of a device performance standard;

* * * * *

(f) This part applies to all FDA advisory committees, except to the extent that specific statutes require otherwise for a particular committee, for example, TEPRSSC and advisory committees established under the Medical Device Amendments of 1976.

■ 4. Amend § 14.22 by revising paragraphs (b)(6) and (i)(4) to read as follows:

§ 14.22 Meetings of an advisory committee.

* * * * *

(b) * * *

(6) The committee is concerned with matters that functionally or historically occur in some other location, e.g., the Science Advisory Board of the National Center for Toxicological Research will generally hold meetings in the Little Rock, AR, vicinity.

* * * * *

(i) * * *

(4) Notes or minutes kept or reports prepared by a committee member have no status or effect unless adopted into the official minutes or report by the committee.

■ 5. Amend § 14.55 by removing paragraph (d); redesignating paragraphs (e) and (f) as paragraphs (d) and (e), respectively; and revising paragraph (c) and newly redesignated paragraph (d) to read as follows:

§ 14.55 Termination of advisory committees.

* * * * *

(c) TEPRSSC is a permanent statutory advisory committee established by section 358(f)(1)(A) of the Public Health Service Act, as added by the Radiation Control for Health and Safety Act of 1968, transferred to the FD&C Act (21 U.S.C. 360kk(f)(1)(A)), and is not subject to termination and renewal under paragraph (a) of this section, except that a new charter is prepared and filed at the end of each 2-year period as provided in § 14.40(c). Also, the statutory medical device classification panels established under section 513(b)(1) of the FD&C Act (21 U.S.C. 360c(b)(1)) and part 860, and the statutory medical device good manufacturing practice advisory committees established under section 520(f)(3) of the FD&C Act (21 U.S.C. 360j(f)(3)), are specifically exempted from the normal 2-year duration period.

(d) Color additive advisory committees are required to be established under the circumstances specified in sections 721(b)(5)(C) and (D) of the FD&C Act (21 U.S.C. 379e(b)(5)(C) and (D)). A color additive advisory committee is subject to the termination and renewal requirements of the Federal Advisory Committee Act and of this part.

* * * * *

■ 6. Amend § 14.65 by revising paragraph (a) to read as follows:

§ 14.65 Public inquiries and requests for advisory committee records.

(a) Public inquiries on general committee matters, except requests for records, are to be directed to the Committee Management Officer in the Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993.

* * * * *

§ 14.120 [Amended]

■ 7. Amend § 14.120 by removing ''Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f(f)(1)(A))'' and adding in its place ''Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360kk(f)(1)(A)).''

§ 14.122 [Amended]

■ 8. Amend § 14.122 by removing ''42 U.S.C. 263f'' and adding in its place ''21 U.S.C. 360kk'' in paragraphs (a)(2) and (b).

§ 14.125 [Amended]

■ 9. Amend § 14.125 by removing ''42 U.S.C. 263f (f)(1)(A)'' and adding in its place ''21 U.S.C. 360kk(f)(1)(A)'' in paragraph (c).

§ 14.130 [Amended]

■ 10. Amend § 14.130 by removing ''42 U.S.C. 263f (f)(1)(B)'' and adding in its place ''21 U.S.C. 360kk(f)(1)(B)'' in paragraph (a).

Dated: March 13, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–06354 Filed 3–19–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0047]

RIN 1625–AA08

Special Local Regulation; New River Raft Race, New River; Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the New River in Fort Lauderdale, Florida during the Rotary Club of Fort Lauderdale New River Raft Race, on Saturday, March 23, 2013. The special local regulation is necessary to ensure the safety of the participants, participant vessels, and the general public during the event. Persons and vessels, except those participating in the event, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule will is effective from 12 p.m. until 1:30 p.m. on March 23, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0047. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention

Department, U.S. Coast Guard; telephone (305) 535–7576, email *Mike.H.Wu@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive necessary event information in regards to the event location until January 22, 2013.

Under 5 U.S.C. 553(d)(3), for the same reasons as above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to minimize potential danger to the race participants, participant vessels, spectators and the general public.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure the safety of life and property on a navigable waterway of the United States during the Rotary Club of Fort Lauderdale New River Raft Race.

On March 23, 2013, Fort Lauderdale Rotary Club is sponsoring the Rotary Club of Fort Lauderdale New River Raft Race. The race will be held on the waters of the New River in Fort Lauderdale, Florida. Approximately 20–25 participants are expected to attend the race. No spectator vessels are expected.

This special local regulation is necessary to ensure the safety of the participants, participant vessels, and the general public during the event.

C. Discussion of the Final Rule

This special local regulation encompasses certain navigable waters of the New River in Fort Lauderdale, Florida. The special local regulation will be effective from 12 p.m. until 1:30 p.m. on March 23, 2013. All persons and vessels, except those participating in the races, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) The special local regulation will be enforced for a maximum of one and a half hours; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the respective enforcement period if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not authorized to enter, transit through, anchor in, or remain within the regulated area may operate in the surrounding areas during the respective enforcement period; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within any of the regulated areas during the respective enforcement period. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–

888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade to ensure the safety of race participants, participant vessels, spectators, and the general public during the event. This rule is categorically excluded from further review under paragraph 34(h) and 35(b) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 2. Add a temporary § 100.35T07–0047 to read as follows:

§ 100.35T07–0047 Special Local Regulation; Rotary Club of Fort Lauderdale New River Raft Race, New River, Fort Lauderdale, FL.

(a) *Regulated Area.* All waters of the New River contained within the following points: starting at Point 1 in position 26°07′11″ N, 80°08′52″ W; thence southeast along the shoreline to Point 2 in position 26°07′05″ N, 80°08′34″ W; thence southwest across the river to Point 3 in position 26°07′04″ N, 80°08′35″ W thence northwest along the shoreline to Point 4 in position 26°07′08″ N, 80°08′52″ W; thence north back across the river to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless participating in the event.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami via telephone at 305–535–4472, or a designated representative via VHF radio on channel 16, to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area via Local Notice to Mariners, Broadcast Notice to Mariners and by on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 12:00 p.m. until 1:30 p.m. on March 23, 2013.

Dated: March 7, 2013.

C.P. Scraba,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 2013–06451 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0357]

RIN 1625–AA09

Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting an interim drawbridge rule published in August 2012 as a final rule for the Berkley (I–264) Bridge, at mile 0.4, across the Eastern Branch of the Elizabeth River, Norfolk, VA. This rule, allowing only four scheduled bridge openings during the day, is necessary to alleviate heavy vehicular traffic delays throughout the day and secondary congestion during the afternoon rush hour, while still providing for the reasonable needs of navigation.

DATES: Effective April 19, 2013.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0357 and are available online by going to *www.regulations.gov,* and inserting USCG–2012–0357 in the ''Search'' box, and then clicking ''Search''. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Terrance A. Knowles, Bridge Administration Branch, Fifth Coast Guard District, telephone (757) 398–6587, email *terrance.a.knowles@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
U.S.C. United States Code
VDOT Virginia Department of Transportation
VMA Virginia Maritime Association

A. Regulatory History and Information

On August 30, 2012, we published an interim rule (IR) entitled, ''Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA'' in the **Federal Register** (77 FR 52599). We received 545 comments on the proposed rule. No public meeting was requested, and none was held.

Other Related Regulatory Action: The following table describes regulatory actions related to this bridge. A discussion of those actions follows.

TABLE 1—RULEMAKINGS

Date	Action	FR Cite	Drawbridge operation regs. (Docket No.)
10/09/2009	Temporary Deviation	74 FR 52143	USCG–2009–0754.
10/09/2009	Proposed Rulemaking (NPRM)	74 FR 52158	USCG–2009–0754.
03/03/2010	Temporary Deviation	75 FR 9521	USCG–2010–0083.
03/03/2010	Supplemental NPRM	75 FR 9557	USCG–2009–0754.
08/06/2010	Temporary Final Rule	75 FR 47461	USCG–2009–0754.
08/30/2012	Interim Rule	77 FR 52599	USCG–2012–0357.

On October 9, 2009, we published a notice of temporary deviation request for comments entitled; ''Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA'' in the **Federal Register** (74 FR 52143) and a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA'' in the **Federal Register** (74 FR 52158). We received 861 comments for both the temporary deviation and NPRM. No public meeting was requested then, and none was held.

On March 3, 2010, we published a notice of temporary deviation request for comments entitled; ''Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA'' in the **Federal Register** (75 FR 9521) and a supplemental notice of proposed rulemaking (SNPRM) entitled ''Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA'' in the **Federal Register** (75 FR 9557). That time we received four comments on the published deviation and SNPRM. No public meeting was requested then, and none was held.

On August 6, 2010, we published a temporary final rule entitled ''Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA'' in the **Federal Register** (75 FR 47461) that temporarily changed the drawbridge operation regulations effective from 9 a.m. on September 4, 2010, until 2:30 p.m. on October 5, 2012.

The establishment of the recent interim rule, effective since October 6, 2012, and the previous temporary final rule, with its similar operating rules/provisions, which was in effect since September 4, 2010, did not place any additional constraints on the waterway users because mariners already used the temporary schedule for almost two years and could still plan their trips in accordance with the scheduled bridge openings. Any operating schedule that would revert back to the previous on-demand operation of the drawbridge would produce a tremendous amount of delay. Prior to these four scheduled daytime openings, delays for motorists were unpredictable and were expected to increase with population growth and any increase in associated traffic.

B. Basis and Purpose

VDOT, which owns and operates the bascule-type Berkley Bridge, requested a

permanent change to the bridge regulations. This final rule makes permanent those temporary regulations currently in effect in the interim rule.

The Berkley Bridge is the principle arterial route in and out of the City of Norfolk and serves as the major evacuation highway in the event of emergencies. In the closed to navigation position, the Berkley Bridge has a vertical clearance of 48 feet above mean high water. Vessel traffic on this portion of the Elizabeth River waterway consists of pleasure craft, tug and barge traffic, and ships with assist tugs seeking repairs. There is no alternate waterway route.

The regulation set out in Title 33 CFR 117.1007 (b) allows the Berkley Bridge, mile 0.4, in Norfolk, Virginia to remain closed one hour prior to the published start of a scheduled marine event regulated under § 100.501, and remain closed until one hour following the completion of the event unless the Patrol Commander designated under § 100.501 allows the bridge to open for commercial vessel traffic. In addition, the bridge shall open on signal any time except from 5 a.m. to 9 a.m. and from 3 p.m. to 7 p.m., Monday through Friday, except Federal holidays, and shall open at any time for vessels with a draft of 18 feet or more, provided that at least 6 hours advance notice has been given to the Berkley Bridge Traffic Control Room at (757) 494–2490 as required by 33 CFR 117.1007 (c).

The interim rule, which modified the above schedule, became effective on October 6, 2012. During the interim rule regulation, the draw shall remain closed one hour prior to the published start of a scheduled marine event regulated under § 100.501, and remain closed until one hour following the completion of the event unless the Patrol Commander designated under § 100.501 allows the bridge to open for commercial vessel traffic. The draw shall open on signal at any time for vessels carrying, in bulk, cargoes regulated by 46 CFR subchapters D or O, or Certain Dangerous Cargoes as defined in 33 CFR 160.204. For all other vessels, the draw shall open on signal at any time, except from 5 a.m. to 7 p.m., Monday through Friday, except Federal holidays. During these times, the draw shall open for commercial vessels with a draft of 18 feet or more, provided at least 6 hours notice was given to the Berkley Bridge Traffic Control room at (757) 494–2490; open on signal at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m.; and if the bridge is not opened during a particular scheduled opening and a vessel has made prior arrangements for a delayed opening, the draw tender may provide a single opening up to 30 minutes past that scheduled opening time for that signaling vessel, except at 2:30 p.m. The draw tender may provide a single opening up to 20 minutes past the 2:30 p.m. scheduled opening time for a signaling vessel that made prior arrangements for a delayed opening. A vessel may make prior arrangements for a delayed opening by contacting the Berkley Bridge Traffic Control room at (757) 494–2490.

This final rule will make the interim final rule opening procedures permanent. Due to this, we anticipate less vehicular traffic congestion between 9 a.m. and 3 p.m., while causing fewer secondary back-ups during rush hours, as compared to increased traffic congestion when the bridge opened on signal.

In 2009, prior to implementing the temporary regulation, a Test Deviation published in the **Federal Register** (74 FR 52143) was issued to allow VDOT to test the proposed schedule and to obtain data and public comments. During that Test Deviation period, a count of the delayed vessels during the closure periods was taken to ensure the regulation would not have a significant impact on navigation. The monthly vehicular traffic counts submitted by VDOT for the last quarter of calendar year 2008 showed the average daily traffic volumes at the Berkley Bridge (See Table A):

TABLE A

OCT 2008	*83,296 vehicles.*
NOV 2008	*99,643 vehicles.*
DEC 2008	*106,856 vehicles.*

The traffic counts revealed that from October 2008 to December 2008, the Berkley Bridge experienced a seven percent (or 23,560-car) increase in vehicular traffic flow. The Coast Guard believes that the increase was due to the previously referenced temporary closure of two Norfolk-area bridges and that vehicular traffic will subside when those bridges return to service.

The Coast Guard received 861 comments on both the temporary deviation and NPRM originally proposed in 2009. A large majority of the responses from commuters were in support of the scheduled opening set-up. However, the local maritime community expressed some objections to the schedule change to vessels.

After review of all of the comments and bridge-related data received, the Coast Guard had determined that an alternative proposal should be considered.

From September 4, 2010, to October 5, 2012, a temporary final rule (75 FR 47461, August 6, 2010) introduced changes that allowed for the draw of the Berkley Bridge to open on signal for the proposed drawbridge openings (scheduled during the daytime) which expected to similarly cause a decrease in traffic congestion. Concurrent with the publication of the SNPRM (75 FR 9557, March 3, 2010), another Test Deviation (75 FR 9521, March 3, 2010) was issued to allow VDOT to test another proposed schedule and to acquire additional data and public comments.

The Coast Guard received four responses to the SNPRM and the second temporary deviation, one each by letter and to the Web site at *www.regulations.gov* along with two emails, all of which were considered in the interim rule (77 FR 52599, August 30, 2012).

The VMA, which represents waterborne commerce in the Port of Hampton Roads, responded in writing with its support of the revised regulation and its statement that the current operating regulation incorporates the minimum degree of flexibility that the maritime industry can accept. VDOT also indicated that the new Berkley Bridge operating regulation had improved the flow of vehicular traffic while still meeting the minimum needs of navigation.

VMA, VDOT and two private citizens expressed concerns about unscheduled openings that caused vehicular traffic congestion. The unscheduled openings were provided for Government vessels and vessels with a draft of 18 feet or more that provided at least 6 hours advance notice and for vessels hauling dangerous cargo.

The Coast Guard reviewed the bridge data supplied by VDOT. The information indicated that during the deviation test period (from March 10, 2010, to September 3, 2010), that a total of 260 potential bridge openings for vessels could have been provided Monday through Friday, except Federal holidays, at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m. The data showed the bridge only opened 88 times of the 260 potential openings. The data also revealed that seven bridge openings were provided just about 15 minutes past the scheduled opening time at 9 a.m., 11 a.m. and 1 p.m. and that the average opening usually lasted 12 minutes; a later opening at 2:30 p.m. would add to the traffic congestion during the rush hour. However, due to good communication with the general public by using road signs and broadcasts, there was only one opening

that occurred after 2:45 p.m. A majority of those openings were provided primarily for commercial vessels, with a maximum of four vessels transiting through a single bridge opening. The subsequent changes to the operating procedures appear to have reduced vehicular traffic congestion while still providing for the reasonable needs of navigation. Based on the information provided, the revised temporary rule was implemented with no changes to the SNPRM.

Between October 2010 and January 2012, from 9 a.m. and 3 p.m., according to data provided by VDOT, the Berkley Bridge averaged approximately 6,533 vehicles per hour which ranks it among the most heavily traveled routes in the region (See Table B).

TABLE B—AVERAGE DAILY VEHICULAR TRAFFIC COUNT

Hourly total	Oct 2010	Jan 2011	May 2011	Aug 2011	Jan 2012	Average
9AM–10AM	6,509	6,230	6,545	6,335	5,956	6,315
10AM–11AM	6,248	6,074	6,362	6,383	5,898	6,193
11AM–12PM	6,443	6,008	6,457	6,439	5,927	6,255
12PM–1PM	6,714	6,583	6,781	6,780	6,283	6,628
1PM–2PM	6,860	6,345	6,766	6,760	6,249	6,596
2PM–3PM	7,330	7,133	7,361	7,210	7,032	7,213
Total	40,103	38,373	40,270	39,906	37,345	39,199

Overall hourly average—6,533.

The temporary regulation schedule provided four bridge lift opportunities each weekday between 9 a.m. and 3 p.m. This equated to a maximum of 88 lifts per month (assuming 22 workdays per month). Since October 2010, there has been an average of only 24 requested lifts per month—a usage rate of only 27% of capacity (See Table C).

TABLE C—BRIDGE OPENING COUNTS

2010 Oct	2010 Nov	2010 Dec	2011 Jan	2011 Feb	2011 Mar	2011 Apr	2011 May	2011 Jun	2011 Jul	2011 Aug	2011 Sep	2011 Oct	2011 Nov	2011 Dec	2012 Jan	2012 Feb	Monthly average	Total
30	15	23	28	27	29	23	22	28	20	9	21	19	34	15	23	35	23.6	401

BRIDGE OPENING AVERAGE DURATION

[In minutes]

2010 Oct	2010 Nov	2010 Dec	2011 Jan	2011 Feb	2011 Mar	2011 Apr	2011 May	2011 Jun	2011 Jul	2011 Aug	2011 Sep	2011 Oct	2011 Nov	2011 Dec	2012 Jan	2012 Feb	Monthly average
10.0	9.9	9.7	8.9	9.4	9.1	9.0	8.9	10.2	10.1	9.3	10.0	9.1	9.1	8.7	10.1	12.3	9.6

Prior to execution of the temporary regulation period, the average duration of a bridge lift was approximately 15 minutes. Throughout the same periods, the average duration of bridge lifts has been 9.6 minutes—a reduction of 5.4 minutes per lift.

The temporary closures of two Norfolk-area bridges, forced increased use of the Berkley Bridge by vehicular traffic. Now with those bridges completed there is some temporary traffic relief, but VDOT suggests that the Berkley Bridge and its approaches will still experience back-ups, delays, and congestion, due to increased traffic and population growth. The Hampton Roads Planning District Commission projected a population growth of 31% by 2034. This continued increase in traffic volume in Norfolk and at the Berkley Bridge is not expected to decrease in the future. The interim rule draw opening schedule has helped to decrease the average bridge opening times, and the rule has led to only 27% of the available opening time being utilized by mariners. Adopting the interim rule as final will help to mitigate future adverse impacts caused by the increased traffic congestion.

Assuming no reduction in maritime traffic volume, this reduction in lift duration has resulted in a significant efficiency increase in the use of time the bridge is actually opened for vessels and a significant reduction in delays to vehicular traffic during vessel openings. The reduction in lift duration combined with the predictability of scheduled lifts optimally balances the competing demands of both road and waterway users.

C. Discussion of Comments, Changes, and the Final Rule

The Coast Guard is adopting as final the interim rule (77 FR 52604, August 30, 2012) without changes, permanently amending the regulations governing the Berkley Bridge, mile 0.4, at Norfolk, Virginia, at 33 CFR 117.1007, by revising paragraph (b)(2) to read as follows: The draw shall open on signal at any time for vessels carrying, in bulk, cargoes regulated by 46 CFR subchapters D or O, or Certain Dangerous Cargoes as defined in 33 CFR 160.204; For all other vessels, the draw shall open on signal at any time, except from 5 a.m. to 7 p.m., Monday through Friday, except Federal holidays. During these times, the draw shall open for commercial vessels with a draft of 18 feet or more, provided at least 6 hours notice was given to the Berkley Bridge Traffic Control room at (757) 494–2490; open on signal at 9 a.m., 11 a.m., 1 p.m. and 2:30 p.m.; and if the bridge is not opened during a particular scheduled opening and a vessel has made prior arrangements for a delayed opening, the draw tender may provide a single opening up to 30 minutes past that scheduled opening time for that signaling vessel, except at 2:30 p.m. The draw tender may provide a single opening up to 20 minutes past the 2:30 p.m. scheduled opening time for a

signaling vessel that made prior arrangements for a delayed opening. A vessel may make prior arrangements for a delayed opening by contacting the Berkley Bridge Traffic Control room at (757) 494–2490.

The Coast Guard believes that this permanent change is necessary to help reduce current and future vehicular traffic congestion throughout the day and during rush hour time periods. Results of studies conducted since the temporary regulation went into effect in September 2010 confirm that scheduled lifts have decreased congestion without negatively impacting waterway users. Scheduled lifts, according to the statistics, are currently being utilized well under capacity by the maritime public. Furthermore, waterway users are accustomed to this schedule, as it has been in effect since September 2010.

The Coast Guard provided 32 days for comment on the interim rule and received 545 total comments (533 public e-comments from *www.regulations.gov,* 11 phone calls, and one email message). Of the 545 comments, 544 overwhelmingly supported the regulation, and only one individual wanted the bridge to open on demand. Several of the 544 supporting comments wanted the schedule to be stricter on navigation by only allowing openings at night, or by lessening the number of openings during the day, or by adjusting the scheduled opening time by fifteen minutes to avoid additional rush hour impacts.

There were two comments from known waterway users. The first commenter, whose business is located along the Eastern Branch of the Elizabeth River, opined that the interim opening schedule to be a reasonable compromise and should be retained. The second commenter stated that all drawbridges should open on-demand due to the excessive expense put on mariners while waiting hours for a few commuters.

As previously stated, the vast majority of respondents supported the predictability of scheduled lifts during the day that will optimally balances the competing demands of both waterway users and the excessively high numbers of vehicles on the roadway.

D. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We reached this conclusion based on the fact that the changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings, to minimize delays. This regulation will allow the provisions of the interim rule to be made permanent.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This action will not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, in allowing four scheduled openings during the day. Mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay. Additionally, vessels that can pass under the bridge without a bridge opening may do so at all times. Before the effective period, we will issue maritime advisories widely available to users of the river.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this 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 because it is not a ''significant regulatory action'' under Executive Order 12866 and 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.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ For the reasons discussed in the preamble, under the authority of 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1, the interim rule amending 33 CFR part 117 that was published at 77 FR 52604 on August 30, 2012, is adopted without change as a final rule.

Dated: February 28, 2013.

Steven H. Ratti,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2013–06428 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0077]

RIN 1625–AA00

Safety Zone; 2013 Naval Air Station Key West Air Spectacular, Boca Chica Channel; Boca Chica, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Boca Chica Channel in Boca Chica, Florida, during the 2013 Naval Air Station Key West Air Spectacular. The safety zone is necessary to provide for the safety of life on navigable waters during the air show and air show practices. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Key West or a designated representative.

DATES: This rule is effective from 12 p.m. on March 21, 2013, until 4:30 p.m. on March 24, 2013. This rule is enforced from 12 p.m. until 1 p.m., 1:30 p.m. until 2:30 p.m., and 3:30 p.m. until 5:30 p.m. on March 21, 2013, and from 2:30 p.m. until 4:30 p.m. on March 22, 23 and 24, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0077]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Marine Science Technician First Class William G. Winegar, Sector Key West Prevention Department, Coast Guard; telephone (305) 292–8809, email *William.G.Winegar@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive necessary information from the United States Navy about the event until February 5, 2013; The Navy is anticipating this event taking place as scheduled. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay

in the effective date of this rule would be impracticable because immediate action is needed to minimize potential danger to spectator vessels, and the general public.

For the same reason discussed above, under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

B. Basis and Purpose

On March 21 through 24, 2013, The United States Navy is hosting an air show on NAS Key West which includes a show performed by the Blue Angels. The event will be held on NAS Key West, Boca Chica, but low flight areas extend into Boca Chica Channel located west of Boca Chica, Florida. The Blue Angels will be performing aerobatic maneuvers above NAS Key West and Boca Chica Channel. Spectator vessels are anticipated to be present during the air show.

The purpose of the rule is to protect spectator vessels, and the general public from the hazards associated with low flying aircraft during the air show.

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that encompasses certain waters of the Boca Chica Channel located west of Boca Chica, Florida. The safety zone will be enforced from 12 p.m. until 1 p.m., 1:30 p.m. until 2:30 p.m., and 3:30 p.m. until 5:30 p.m. on March 21, 2013, and 2:30 p.m. until 4:30 p.m. on March 22 through the 24, 2013. The safety zone encompasses all waters within a pre-designated box offshore of NAS Key West on Boca Chica where all persons and vessels, except those persons and vessels participating in the air show, are prohibited from entering, transiting, anchoring, or remaining. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the safety zone by contacting the Captain of the Port Key West by telephone at 305–292–8727, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative. The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will only be enforced for four hours on March 21, 2013 and for two hours each day thereafter; (2) vessel traffic in the area is expected to be minimal during the enforcement period; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Key West or a designated representative, they may operate in the surrounding area during the enforcement period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Key West or a designated representative; and (5) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Ocean encompassed within the safety zone from 12 p.m. until 1 p.m., 1:30 p.m. until 2:30 p.m., and 3:30 p.m. until 5:30 p.m. on March 21, 2013, and 2:30 p.m. until 4:30 p.m. on March 22 through the 24, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and

determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under Figure 2–1, paragraph (34)(g), of the instruction. This rule involves establishing a temporary safety zone that will be enforced for a total of four hours on March 21, 2013 and for two hours each day thereafter. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0956 to read as follows:

§ 165.T07–0956 Safety Zone; Naval Air Station Key West Air Spectacular, Atlantic Ocean, Boca Chica, FL.

(a) *Regulated Area.* All waters of the Atlantic Ocean located west of Boca Chica encompassed within an imaginary line connecting the following points: starting at Point 1 in position 24°33′48″ N, 81°43′02″ W; thence north to Point 2 in position 24°34′18″ N, 81°43′08″ W; thence east to Point 3 in position 24°34′28″ N, 81°42′22″ W; thence southwest following the shoreline back to origin. All persons and vessels, except those persons and vessels participating in the air show, are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone. All coordinates are North American Datum.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Key West in the enforcement of the regulated area.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Key West or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Key West by telephone at (305) 292–8727, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is enforced from 12 p.m. until 1 p.m., 1:30 p.m. until 2:30 p.m., and 3:30 p.m. until 5:30 p.m. on March 21, 2013, and from 2:30 p.m. until 4:30 p.m. on March 22 through the 24, 2013.

Dated: March 4, 2013.

A. S. Young Sr.,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2013–06439 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0023]

RIN 1625–AA00

Safety Zone; Lake Havasu Triathlon; Lake Havasu City, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the navigable waters of Lake Havasu and the London Bridge Channel for the Lake Havasu Triathlon. This temporary safety zone is necessary to provide safety for the swimmers, crew, rescue personnel, and other users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 6 a.m. until 10 a.m. on March 23, 2013.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2013–0023 and are available online by going to *http://www.regulations.gov,* inserting USCG–2013–0023 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Petty Officer Bryan Gollogly, Waterways Management, U.S. Coast Guard Sector San Diego; Coast Guard; telephone 619–278–7656, email *D11-PF-MarineEventsSanDiego@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because delay would be impracticable. The Coast Guard did not receive the necessary information from the event sponsor until recently and the sponsor is anticipating this event taking place as scheduled. Because of these time constraints, it is impracticable that the Coast Guard issue an NPRM. Immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the date and times this rule will be in effect.

Under 5 U.S.C. 553(d)(3), for the same reasons mentioned above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable and contrary to the public interest, since immediate action is needed to ensure the public's safety and the Coast Guard was provided with information regarding this event with insufficient time to delay the effective date.

B. Basis and Purpose

The Havasu Triathlon will consist of 600 participants. The waterside swim course consists of 1500 meters in Lake Havasu and the London Bridge Channel. The course requires a safety zone while the swimmers are on the course, thus restricting vessel traffic within the north London Bridge Channel and a small portion of Lake Havasu for four hours. There will be four safety vessels provided by the sponsor to enforce the safety zone. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM).

C. Discussion of Rule

The Coast Guard is establishing a safety zone that will be effective from 6 a.m. until 10 a.m. on March 23, 2013. The limits of the safety zone will include the portion of the London Bridge Channel north of the London Bridge and all navigable waters of Lake Havasu encompassed by the following coordinates; 34°28′40″ N, 114°21′43″ W, 34°28′19″ N, 114°21′42″ W, 34°28′39″ N, 114°21′19″ W, 34°28′20″ N, 114°20′49″ W and 34°28′16″ N, 114°20′54″ W

The safety zone is necessary to provide for the safety of swimmers, crew, rescue personnel, and other users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port, or his designated representative.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The safety zone is of a limited duration, four hours, and is limited to a relatively small geographic area.

2. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners and operators of pleasure craft engaged in recreational activities and sightseeing.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic will be restricted for a limited period of only two hours early in the day when traffic is light. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM).

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in

understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this 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 because it is not a ''significant regulatory action'' under Executive Order 12866 and 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.

13. 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–474 to read as follows:

§ 165.T11–474 Safety Zone; Lake Havasu Triathlon; Lake Havasu City, AZ.

(a) *Location.* The limits of the safety zone will include the portion of the London Bridge Channel north of the London Bridge and all navigable waters of Lake Havasu encompassed by the following coordinates; 34°28′40″ N, 114°21′43″ W, 34°28′19″ N, 114°21′42″ W, 34°28′39″ N, 114°21′19″ W, 34°28′20″ N, 114°20′49″ W and 34°28′16″ N, 114°20′54″ W.

(b) Effective Period. This section will be effective from 6 a.m. until 10 a.m. on March 23, 2013. Before the effective

period, the Coast Guard will publish a Local Notice to Mariners (LNM).

(c) *Definitions.* The following definition applies to this section: *designated representative* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from local law enforcement. Local law enforcement may be contacted on VHF marine Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing a light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: March 6, 2013.

S.M. Mahoney,

Captain, U.S. Coast Guard, Acting, Captain of the Port San Diego.

[FR Doc. 2013–06442 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0228]

RIN 1625–AA00

Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 at various times on March 27 through March 29, 2013. This action is necessary to protect the waterways, waterway users, and vessels from hazards associated with the U.S. Army Corps of Engineers Electromagnetic Fields evaluation operations.

During any of the below listed enforcement periods, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

DATES: The regulations in 33 CFR 165.930 will be enforced from 7 a.m. until 11 a.m. and from 1 p.m. until 5 p.m. every day from March 27 through March 29, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, telephone 414–747–7148, email address *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone between Mile Marker 296.1 to Mile Marker 296.7 on all waters of the Chicago Sanitary and Ship Canal. Enforcement will occur from 7:00 a.m. until 11:00 a.m. and 1:00 p.m. until 5:00 p.m. on March 27 through March 29, 2013.

This enforcement action is necessary because the Captain of the Port, Sector Lake Michigan has determined that the U.S. Army Corps of Engineers Electromagnetic Fields evaluation operation poses risks to life and property. Because of these risks, it is necessary to control vessel movement during the operation to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

This notice is issued under authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Sector Lake Michigan, will also provide notice through other means, which may include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice.

Additionally, the Captain of the Port, Sector Lake Michigan, may notify representatives from the maritime industry through telephonic and email notifications.

Dated: March 5, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2013–06450 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0058]

RIN 1625–AA00

Safety Zone; BWRC Southwest Showdown 2, Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Lake Moolvalya region of the navigable waters of the Colorado River in Parker, Arizona for the Blue Water Resort and Casino Southwest Showdown. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 9 a.m. on March 22, 2013, until 6 p.m. on March 24, 2013. This rule will be enforced from 9 a.m. until 6 p.m. on March 22, 23, and 24, 2013.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2013–0058 and are available online by going to *http://www.regulations.gov,* inserting USCG–2013–0058 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey

Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Petty Officer Bryan Gollogly, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *D11-PF-MarineEventsSanDiego@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. The Coast Guard did not receive the necessary information from the event sponsor until recently and the sponsor is anticipating this event taking place as scheduled. Because of these time constraints, it is impracticable that the Coast Guard issue an NPRM. Immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect.

Under 5 U.S.C. 553(d)(3), for the same reasons mentioned above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable and contrary to the public interest, since immediate action is needed to ensure the public's safety and the Coast Guard was provided with information regarding this event with insufficient time to delay the effective date.

B. Basis and Purpose

The Arizona Drag Boat Association is sponsoring the Blue Water Resort and Casino Southwest Showdown 2, which is held on the Lake Moolvalya region of the Colorado River in Parker, Arizona. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other vessels and users of the waterway. This event involves powerboats transiting at high rate of speed along a 1000 foot straightaway. The size of the boats varies from 16 to 20 feet in length. Approximately 80 boats will be participating in this event. The sponsor will provide seven patrol and rescue boats and three river closure boats to help facilitate the event and ensure public safety.

C. Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced from 9 a.m. to 6 p.m. on March 22, 2013, March 23, 2013, and March 24, 2013. This safety zone is necessary to provide for the safety of the crews, spectators, participants, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring with this safety zone unless authorized by the Captain of the Port, or his designated representative. This temporary safety zone includes the waters of the Colorado River between Headgate Dam and 0.5 miles north of the Blue Water Marina in Parker, Arizona. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM).

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels may transit through the established safety zone if authorized to do so by the Captain of the Port or his designated representative.

2. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Colorado River from 9 a.m. to 6 p.m. on March 22, 2013 through March 24, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM).

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132,

Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

We have analyzed this 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 because it is not a ''significant regulatory action'' under Executive Order 12866 and 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.

13. 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)–(g), of the Instruction. This rule involves the establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–486 to read as follows:

§ 165.T11–486 Safety zone; BWRC Southwest Showdown 2, Parker, AZ.

(a) *Location.* This temporary safety zone includes the waters of the Colorado River between Headgate Dam and 0.5 miles north of the Blue Water Marina in Parker, Arizona.

(b) *Enforcement Period.* This section is effective from 9 a.m. on March 22, 2013, until 6 p.m. on March 24, 2013. It will be enforced from 9 a.m. to 6 p.m. each day (March 22, 23 and 24, 2013). Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM). If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander. The Patrol Commander may be contacted at (619)454–9057.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: March 6, 2013.

S.M. Mahoney,

Commander, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2013–06443 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1 and 41

[Docket No. PTO–C–2013–0010]

RIN 0651–AC86

Setting and Adjusting Patent Fees; Correction

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Interim rule.

SUMMARY: The United States Patent and Trademark Office (Office) is correcting final regulations that were published in the **Federal Register** on January 18, 2013 (78 FR 4212) (''Fee Setting final rule'') to set and adjust patent fees as authorized by the Leahy-Smith America Invents Act (''AIA''). The Fee Setting rule became effective on March 19, 2013 (except that certain regulations relating to international applications become effective on January 1, 2014). This rulemaking corrects those final regulations to revise minor inconsistencies within the Fee Setting final rule or arising from other recent rulemakings under the AIA. It also corrects minor inconsistencies with a few of the Regulations under the Patent Cooperation Treaty (PCT) and typographical errors.

DATES: Effective March 20, 2013.

Comment deadline date: Written comments must be received on or before May 20, 2013.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to: *AC86.comments@uspto.gov*. Comments may also be submitted by postal mail addressed to: Mail Stop Comments CFO, Office of the Chief Financial Officer, P.O. Box 1450, Alexandria, Virginia 22313–1450, marked to the attention of Michelle Picard, Office of the Chief Financial Officer.

Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet because sharing comments with the public is more easily accomplished. Electronic comments are preferred to be submitted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

The comments will be available for public inspection at the Office of the Chief Financial Officer, currently located in Madison West, Tenth Floor, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for viewing via the Office's Internet Web site (*http://www.uspto.gov*). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Michelle Picard, Office of the Chief Financial Officer, by telephone at (571) 272–6354 or by email at *michelle.picard@uspto.gov;* or Dianne Buie, Office of Planning and Budget, by telephone at (571) 272–6301 or by email at *dianne.buie@uspto.gov*.

SUPPLEMENTARY INFORMATION: On January 18, 2013, the Office published the Fee Setting final rule setting and adjusting patent fees as authorized by the AIA. *See Setting and Adjusting Patent Fees,* 78 FR 4212 (Jan. 18, 2013) (''Fee Setting final rule''). This interim rule is a procedural correction to minor inconsistencies within the Fee Setting final rule or arising from other recent rulemakings under the AIA, namely: Changes to Implement the First Inventor to File Provisions of the Leahy-Smith America Invents Act, 78 FR 11024 (Feb. 14, 2013) (''FITF final rule''); Changes to Implement Micro Entity Status for Paying Patent Fees, 77 FR 75019 (Dec. 19, 2012) (''Micro Entity final rule''); Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act, 77 FR 48776 (Aug. 14, 2012) (''Inventor's Oath or Declaration final rule''); and Changes to Implement the Preissuance Submissions by Third Parties Provision of the Leahy-Smith America Invents Act, 77 FR 42150 (July 17, 2012) (''Third Party Submissions final rule''). It also corrects minor inconsistencies with the nomenclature and application of a few of the Regulations under the Patent Cooperation Treaty, as well as typographical errors. Good cause exists to make these minor corrections without prior notice and opportunity for comment and to be effective shortly after the effective date of the Fee Setting final rule to avoid inconsistent provisions. For ease of reference, this interim rule provides the full text of the corrected rules. These rules are 37 CFR 1.17, 1.20, 1.445, 1.482, 41.37 and 41.45.

Brief Description of Corrections

This interim rule corrects minor inconsistencies and typographical errors in the text of 37 CFR 1.17, 1.20, 1.445, 1.482, 41.37 and 41.45 (which were published in the **Federal Register** on January 18, 2013 (78 FR 4212)), as described briefly below.

1. Section 1.17

In paragraph (b), revise ''For fees in proceedings before the Patent Trial and Appeal Board, *see* § 41.20 of this title'' to ''For fees in proceedings before the Patent Trial and Appeal Board, *see* § 41.20 and § 42.15 of this title'' to correct a typographical error in the Fee Setting final rule. *See* 78 FR 4285.

In paragraph (g), add ''§ 1.46—for filing an application on behalf of an inventor by a person who otherwise shows sufficient proprietary interest in the matter'' and ''§ 1.55(f)—for filing a belated certified copy of a foreign application.'' These corrections are made because the FITF final rule established these fees under this paragraph. *See* 78 FR 11052.

In paragraph (g), delete ''§ 1.47—for filing by other than all the inventors or a person not the inventor.'' This correction is made because the Inventor's Oath or Declaration final rule removed this fee. *See* 77 FR 48816.

In paragraph (g), delete ''§ 1.295—for review of refusal to publish a statutory invention registration'' and ''§ 1.296—to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.'' These corrections are made because the FITF final rule removed these fees. *See* 78 FR 11059.

In subparagraph (i)(1), add ''§ 1.29(k)(3)—for processing a non-itemized fee deficiency based on an error in micro entity status.'' This correction is made because the Micro-

Entity final rule established this fee under this paragraph. *See* 77 FR 75035.

In subparagraph (i)(1), revise ''§ 1.41—for supplying the name or names of the inventor or inventors after the filing date without an oath or declaration as prescribed by § 1.63, except in provisional applications'' to ''§ 1.41(b)—for supplying the name or names of the inventor or joint inventors in an application without either an application data sheet or the inventor's oath or declaration, except in provisional applications.'' This correction is made because the Inventor's Oath or Declaration final rule established this fee under this subparagraph. *See* 77 FR 48814.

In subparagraph (i)(1), revise ''§ 1.53(b)(3)'' to ''§ 1.53(c)(3)'' to correct a typographical error in the Fee Setting final rule. *See* 78 FR 4286.

In subparagraph (i)(1), revise ''§ 1.55—for entry of late priority papers'' to ''§ 1.55—for entry of a priority claim or certified copy of a foreign application after payment of the issue fee.'' This correction is made because the FITF final rule established this fee under this paragraph. *See* 78 FR 11052.

In subparagraph (i)(1), delete ''§ 1.99(e)—for processing a belated submission under § 1.99.'' This correction is made because the Third Party Submissions final rule removed this fee. *See* 77 FR 42173.

In subparagraph (i)(1), delete ''§ 1.497(d)—for filing an oath or declaration pursuant to 35 U.S.C. 371(c)(4) naming an inventive entity different from the inventive entity set forth in the international stage.'' This correction is made because the Inventor's Oath or Declaration final rule removed this fee. *See* 77 FR 48824–25.

In subparagraph (i)(2), delete ''By other than a small or micro entity.'' This correction addresses a typographical error in the Fee Setting final rule. *See* 78 FR 4267, Table 43.

2. Section 1.20

In paragraph (d), delete ''By other than a small or micro entity.'' This correction addresses a typographical error in the Fee Setting final rule. *See* 78 FR 4223.

3. Section 1.445

In subparagraph (a)(1)(i)(A), revise ''For a transmittal fee paid on or after January 1, 2014'' to ''For an international application having a receipt date that is on or after January 1, 2014.'' In subparagraph (a)(1)(i)(B), revise ''For a transmittal fee paid before January 1, 2014'' to ''For an international application having a receipt date that is before January 1, 2014.''

In subparagraph (a)(2)(i), revise ''For a search fee paid on or after January 1, 2014'' to ''For an international application having a receipt date that is on or after January 1, 2014.'' In subparagraph (a)(2)(ii), revise ''For a search fee paid before January 1, 2014'' to ''For an international application having a receipt date that is before January 1, 2014.''

In subparagraph (a)(3)(i), revise ''For a supplemental search fee paid on or after January 1, 2014'' to ''For an international application having a receipt date that is on or after January 1, 2014.'' In subparagraph (a)(3)(ii), revise ''For a supplemental search fee paid before January 1, 2014'' to ''For an international application having a receipt date that is before January 1, 2014.''

The foregoing corrections ensure consistent nomenclature with and application of Rules 14–16 under the regulations adopted under the Patent Cooperation Treaty.

In subparagraph (a)(4), delete 1.445(a)(4)(i) and 1.445(a)(4)(ii). This corrects an inconsistency within 37 CFR § 1.445(a)(4) in the Fee Setting final rule. *See* 78 FR 4289.

4. Section 1.482

In subparagraph (a)(1)(i)(A), revise ''For an international search fee filed on or after January 1, 2014'' to ''For an international preliminary examination fee paid on or after January 1, 2014.'' In subparagraph (a)(1)(i)(B), revise ''For an international search fee filed before January 1, 2014'' to ''For an international preliminary examination fee paid before January 1, 2014.''

In subparagraph (a)(1)(ii)(A), revise ''For an international search fee filed on or after January 1, 2014'' to ''For an international preliminary examination fee paid on or after January 1, 2014.'' In subparagraph (a)(1)(ii)(B), revise ''For an international search fee filed before January 1, 2014'' to ''For an international preliminary examination fee paid before January 1, 2014.''

In subparagraph (a)(2)(i), revise ''For an additional preliminary examination fee filed on or after January 1, 2014'' to ''If the international preliminary examination fee set forth in paragraph (a)(1) of this section was paid on or after January 1, 2014.'' In subparagraph (a)(2)(ii), revise ''For an additional preliminary examination fee filed before January 1, 2014'' to ''If the international preliminary examination fee set forth in paragraph (a)(1) of this section was paid before January 1, 2014.''

The foregoing corrections ensure consistent nomenclature with and application of Rules 57 and 58 under the regulations adopted under the Patent Cooperation Treaty.

5. Section 41.37

In paragraph (a), second sentence, replace ''§ 41.48'' with ''§ 41.45'' to correct a typographical error in the Fee Setting final rule. *See* 78 FR 4291.

6. Section 41.45

In paragraph (b), add ''to pay the'' so that the provision reads ''On failure to pay the fee set forth in * * *.'' This corrects a typographical error in the Fee Setting final rule. *See* 78 FR 4291.

Rulemaking Considerations

A. Administrative Procedure Act: This rulemaking is a procedural correction to revise minor inconsistencies within the Fee Setting final rule or arising from other recent rulemakings under the AIA, namely: The FITF final rule; the Micro Entity final rule; the Inventor's Oath or Declaration final rule; and the Third Party Submissions final rule. It also corrects minor inconsistencies with the nomenclature and application of a few of the Regulations under the Patent Cooperation Treaty, as well as typographical errors. This interim rule does not set or adjust fees under the fee setting authority provided in Section 10 of the AIA. These changes do not alter the amount of fees or the obligation to pay fees, nor do they alter the substantive criteria of patentability or patent term adjustment. Therefore, these changes involve rules of agency practice and procedure, and are not subject to prior notice and an opportunity for comment. *See* 5 U.S.C. 553(b); *see also Bachow Commc'ns, Inc.* v. *F.C.C.,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act).

In addition, good cause exists to make these procedural changes without prior notice and opportunity for comment and to be effective immediately to avoid inconsistencies and confusion with the Fee Setting final rule.

Although prior notice and opportunity for public comment are not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law), nor is the thirty-day delay in effectiveness under 5 U.S.C. 553(d) required, the Office nonetheless provides the opportunity for comment as it seeks the benefit of the public's views on these corrections to the Fee Setting final rule.

B. Regulatory Flexibility Act: For the reasons set forth herein, the Deputy General Counsel for General Law of the

United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that changes in this rulemaking will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

The changes in this rulemaking are procedural corrections to revise minor inconsistencies within the Fee Setting final rule or arising from other recent rulemakings under the AIA. This rulemaking also corrects minor inconsistencies with the nomenclature and application of a few of the Regulations under the Patent Cooperation Treaty, as well as typographical errors. This interim rule does not set or adjust fees under the fee setting authority provided in Section 10 of the AIA. These changes do not alter the amount of fees or the obligation to pay fees, nor do they alter the substantive criteria of patentability or patent term adjustment. These changes do not add any additional requirements (including information collection requirements) or fees for patent applicants or patentees. For these reasons, the changes in this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office.

The changes in this rulemaking are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

O. Paperwork Reduction Act: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. The collection of information involved in the Fee Setting final rule was submitted to OMB with that final rule as a new information collection request and was preapproved under OMB control number 0651–0072. The changes in this interim rule are procedural corrections to revise minor inconsistencies within the Fee Setting final rule or arising from other recent rulemakings under the AIA. This rulemaking also corrects minor inconsistencies with the nomenclature and application of a few of the Regulations under the Patent Cooperation Treaty, as well as typographical errors. This interim rule does not set or adjust fees under the fee setting authority provided in Section 10 of the AIA. These changes do not alter the amount of fees or the obligation to pay fees, nor do they alter the substantive criteria of patentability or patent term adjustment. These changes do not add any additional requirements (including information collection

requirements) or fees for patent applicants or patentees. Therefore, the Office is not resubmitting information collection packages to OMB for its review and approval because the changes in this rulemaking do not affect the information collection requirements associated with the information collections approved under OMB control number 0651–0072 or any other information collections.

Notwithstanding any other provision of law, no person is required to respond to nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

For the reasons set forth in the preamble, 37 CFR parts 1 and 41 are amended to read as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

■ 2. Section 1.17 is revised to read as follows:

§ 1.17 Patent application and reexamination processing fees.

(a) Extension fees pursuant to § 1.136(a):
(1) For reply within first month:
By a micro entity (§ 1.29) $50.00
By a small entity (§ 1.27(a)) $100.00
By other than a small or micro entity $200.00
(2) For reply within second month:
By a micro entity (§ 1.29) $150.00
By a small entity (§ 1.27(a)) $300.00
By other than a small or micro entity $600.00
(3) For reply within third month:
By a micro entity (§ 1.29) $350.00
By a small entity (§ 1.27(a)) $700.00
By other than a small or micro entity $1,400.00
(4) For reply within fourth month:.
By a micro entity (§ 1.29) $550.00
By a small entity (§ 1.27(a)) $1,100.00
By other than a small or micro entity $2,200.00
(5) For reply within fifth month:
By a micro entity (§ 1.29) $750.00
By a small entity (§ 1.27(a)) $1,500.00
By other than a small or micro entity $3,000.00
(b) For fees in proceedings before the Patent Trial and Appeal Board, *see* § 41.20 and § 42.15 of this title.
(c) For filing a request for prioritized examination under § 1.102(e):
By a micro entity (§ 1.29) $1,000.00
By a small entity (§ 1.27(a)) $2,000.00
By other than a small or micro entity $4,000.00
(d) For correction of inventorship in an application after the first action on the merits:
By a micro entity (§ 1.29) $150.00
By a small entity (§ 1.27(a)) $300.00
By other than a small or micro entity $600.00
(e) To request continued examination pursuant to § 1.114:
(1) For filing a first request for continued examination pursuant to § 1.114 in an application:
By a micro entity (§ 1.29) $300.00
By a small entity (§ 1.27(a)) $600.00
By other than a small or micro entity $1,200.00
(2) For filing a second or subsequent request for continued examination pursuant to § 1.114 in an application:
By a micro entity (§ 1.29) $425.00
By a small entity (§ 1.27(a)) $850.00
By other than a small or micro entity $1,700.00
(f) For filing a petition under one of the following sections which refers to this paragraph:
By a micro entity (§ 1.29) $100.00
By a small entity (§ 1.27(a)) $200.00
By other than a small or micro entity $400.00

§ 1.36(a)—for revocation of a power of attorney by fewer than all of the applicants.

§ 1.53(e)—to accord a filing date.

§ 1.57(a)—to accord a filing date.

§ 1.182—for decision on a question not specifically provided for.

§ 1.183—to suspend the rules.

§ 1.378(e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.

§ 1.741(b)—to accord a filing date to an application under § 1.740 for extension of a patent term.

(g) For filing a petition under one of the following sections which refers to this paragraph:
By a micro entity (§ 1.29) $50.00
By a small entity (§ 1.27(a)) $100.00
By other than a small or micro entity $200.00

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.46—for filing an application on behalf of an inventor by a person who otherwise shows sufficient proprietary interest in the matter.

§ 1.55(f)—for filing a belated certified copy of a foreign application.

§ 1.59—for expungement of information.

§ 1.103(a)—to suspend action in an application.

§ 1.136(b)—for review of a request for extension of time when the provisions of § 1.136(a) are not available.

§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.

§ 1.550(c)—for patent owner requests for extension of time in *ex parte* reexamination proceedings.

§ 1.956—for patent owner requests for extension of time in *inter partes* reexamination proceedings.

§ 5.12—for expedited handling of a foreign filing license.

§ 5.15—for changing the scope of a license.

§ 5.25—for retroactive license.

(h) For filing a petition under one of the following sections which refers to this paragraph:
By a micro entity (§ 1.29) $35.00
By a small entity (§ 1.27(a)) $70.00
By other than a small or micro entity $140.00

§ 1.19(g)—to request documents in a form other than provided in this part.

§ 1.84—for accepting color drawings or photographs.

§ 1.91—for entry of a model or exhibit.

§ 1.102(d)—to make an application special.

§ 1.138(c)—to expressly abandon an application to avoid publication.

§ 1.313—to withdraw an application from issue.

§ 1.314—to defer issuance of a patent.

(i) Processing fees:
(1) For taking action under one of the following sections which refers to this paragraph:
By a micro entity (§ 1.29) $35.00
By a small entity (§ 1.27(a)) $70.00
By other than a small or micro entity $140.00

§ 1.28(c)(3)—for processing a non-itemized fee deficiency based on an error in small entity status.

§ 1.29(k)(3)—for processing a non-itemized fee deficiency based on an error in micro entity status.

§ 1.41(b)—for supplying the name or names of the inventor or joint inventors in an application without either an application data sheet or the inventor's oath or declaration, except in provisional applications.

§ 1.48—for correcting inventorship, except in provisional applications.

§ 1.52(d)—for processing a nonprovisional application filed with a specification in a language other than English.

§ 1.53(c)(3)—to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b).

§ 1.55—for entry of a priority claim or certified copy of a foreign application after payment of the issue fee.

§ 1.71(g)(2)—for processing a belated amendment under § 1.71(g).

§ 1.102(e)—for requesting prioritized examination of an application.

§ 1.103(b)—for requesting limited suspension of action, continued prosecution application for a design patent (§ 1.53(d)).

§ 1.103(c)—for requesting limited suspension of action, request for continued examination (§ 1.114).

§ 1.103(d)—for requesting deferred examination of an application.

§ 1.291(c)(5)—for processing a second or subsequent protest by the same real party in interest.

§ 3.81—for a patent to issue to assignee, assignment submitted after payment of the issue fee.

(2) For taking action under one of the following sections which refers to this paragraph $130.00

§ 1.217—for processing a redacted copy of a paper submitted in the file of an application in which a redacted copy was submitted for the patent application publication.

§ 1.221—for requesting voluntary publication or republication of an application.

(j) [Reserved]

(k) For filing a request for expedited examination under § 1.155(a):
By a micro entity (§ 1.29) $225.00
By a small entity (§ 1.27(a)) $450.00
By other than a small or micro entity. $900.00

(l) For filing a petition for the revival of an unavoidably abandoned application under 35 U.S.C. 111, 133, 364, or 371, for the unavoidably delayed payment of the issue fee under 35 U.S.C. 151, or for the revival of an unavoidably terminated reexamination proceeding under 35 U.S.C. 133 (§ 1.137(a)):
By a micro entity (§ 1.29) $160.00
By a small entity (§ 1.27(a)) $320.00
By other than a small or micro entity $640.00

(m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):
By a micro entity (§ 1.29) $475.00
By a small entity (§ 1.27(a)) $950.00
By other than a small or micro entity $1,900.00

(n) [Reserved]

(o) [Reserved]

(p) For an information disclosure statement under § 1.97(c) or (d) or for the document fee for a submission under § 1.290:
By a micro entity (§ 1.29) $45.00
By a small entity (§ 1.27(a)) $90.00
By other than a small or micro entity $180.00

(q) Processing fee for taking action under one of the following sections which refers to this paragraph $50.00

§ 1.41—to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by § 1.51(c)(1) in a provisional application.

§ 1.48—for correction of inventorship in a provisional application.

§ 1.53(c)(2)—to convert a nonprovisional application filed under § 1.53(b) to a provisional application under § 1.53(c).

(r) For entry of a submission after final rejection under § 1.129(a):
By a micro entity (§ 1.29) $210.00
By a small entity (§ 1.27(a)) $420.00
By other than a small or micro entity $840.00

(s) For each additional invention requested to be examined under § 1.129(b):
By a micro entity (§ 1.29) $210.00
By a small entity (§ 1.27(a)) $420.00
By other than a small or micro entity $840.00

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c) (§§ 1.55 and 1.78) or for filing a request for the restoration of the right of priority under § 1.452:
By a micro entity (§ 1.29) $355.00
By a small entity (§ 1.27(a)). $710.00
By other than a small or micro entity $1,420.00

■ 3. Section 1.20 is revised to read as follows:

§ 1.20 Post issuance fees.

(a) For providing a certificate of correction for applicant's mistake (§ 1.323) $100.00

(b) Processing fee for correcting inventorship in a patent (§ 1.324) $130.00

(c) In reexamination proceedings:

(1) For filing a request for *ex parte* reexamination (§ 1.510(a)):
By a micro entity (§ 1.29) $3,000.00
By a small entity (§ 1.27(a)) $6,000.00
By other than a small or micro entity $12,000.00

(2) [Reserved]

(3) For filing with a request for reexamination or later presentation at any other time of each claim in independent form in excess of 3 and also in excess of the number of claims in independent form in the patent under reexamination:
By a micro entity (§ 1.29) $105.00
By a small entity (§ 1.27(a)) $210.00
By other than a small or micro entity $420.00

(4) For filing with a request for reexamination or later presentation at any other time of each claim (whether dependent or independent) in excess of 20 and also in excess of the number of claims in the patent under reexamination (note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes):
By a micro entity (§ 1.29) $20.00
By a small entity (§ 1.27(a)) $40.00
By other than a small or micro entity $80.00

(5) If the excess claims fees required by paragraphs (c)(3) and (4) of this section are not paid with the request for reexamination or on later presentation of the claims for which the excess claims fees are due, the fees required by paragraphs (c)(3) and (4) must be paid or the claims canceled by amendment prior to the expiration of the time period set for reply by the Office in any notice of fee deficiency in order to avoid abandonment.

(6) For filing a petition in a reexamination proceeding, except for those specifically enumerated in §§ 1.550(i) and 1.937(d):
By a micro entity (§ 1.29) $485.00
By a small entity (§ 1.27(a)) $970.00
By other than a small or micro entity $1,940.00

(7) For a refused request for *ex parte* reexamination under § 1.510 (included in the request for *ex parte* reexamination fee at § 1.20(c)(1)):
By a micro entity (§ 1.29) $900.00
By a small entity (§ 1.27(a)) $1,800.00
By other than a small or micro entity $3,600.00

(d) For filing each statutory disclaimer (§ 1.321) $160.00

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years, the fee being due by three years and six months after the original grant:
By a micro entity (§ 1.29) $400.00
By a small entity (§ 1.27(a)) $800.00
By other than a small or micro entity $1,600.00

(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years, the fee being due by seven years and six months after the original grant:
By a micro entity (§ 1.29) $900.00
By a small entity (§ 1.27(a)) $1,800.00
By other than a small or micro entity $3,600.00

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years, the fee being due by eleven years and six months after the original grant:
By a micro entity (§ 1.29) $1,850.00
By a small entity (§ 1.27(a)) $3,700.00
By other than a small or micro entity $7,400.00

(h) Surcharge for paying a maintenance fee during the six-month grace period following the expiration of three years and six months, seven years and six months, and eleven years and six months after the date of the original grant of a patent based on an application filed on or after December 12, 1980:
By a micro entity (§ 1.29) $40.00
By a small entity (§ 1.27(a)) $80.00
By other than a small or micro entity $160.00

(i) Surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee where the delay in payment is shown to the satisfaction of the Director to have been—
(1) Unavoidable:
By a micro entity (§ 1.29) $175.00
By a small entity (§ 1.27(a)) $350.00
By other than a small or micro entity $700.00
(2) Unintentional:
By a micro entity (§ 1.29) $410.00
By a small entity (§ 1.27(a)) $820.00
By other than a small or micro entity $1,640.00
(j) For filing an application for extension of the term of a patent.
Application for extension under § 1.740 ..... $1,120.00
Initial application for interim extension under § 1.790 ..... $420.00
Subsequent application for interim extension under § 1.790 ..... $220.00
(k) In supplemental examination proceedings:
(1) For processing and treating a request for supplemental examination:
By a micro entity (§ 1.29) $1,100.00
By a small entity (§ 1.27(a)) $2,200.00
By other than a small or micro entity $4,400.00
(2) For *ex parte* reexamination ordered as a result of a supplemental examination proceeding:
By a micro entity (§ 1.29) $3,025.00
By a small entity (§ 1.27(a)) $6,050.00
By other than a small or micro entity $12,100.00
(3) For processing and treating, in a supplemental examination proceeding, a non-patent document over 20 sheets in length, per document:
(i) Between 21 and 50 sheets:
By a micro entity (§ 1.29) $45.00
By a small entity (§ 1.27(a)) $90.00
By other than a small or micro entity. $180.00
(ii) For each additional 50 sheets or a fraction thereof:
By a micro entity (§ 1.29) $70.00
By a small entity (§ 1.27(a)) $140.00
By other than a small or micro entity $280.00

■ 4. Section 1.445 is revised to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) The following fees and charges for international applications are established by law or by the Director under the authority of 35 U.S.C. 376:

(1) A transmittal fee (*see* 35 U.S.C. 361(d) and PCT Rule 14) consisting of:

(i) A basic portion:
(A) For an international application having a receipt date that is on or after January 1, 2014:
By a micro entity (§ 1.29) $60.00
By a small entity (§ 1.27(a)) $120.00
By other than a small or micro entity $240.00
(B) For an international application having a receipt date that is before January 1, 2014 ..... $240.00
(ii) A non-electronic filing fee portion for any international application designating the United States of America that is filed on or after November 15, 2011, other than by the Office electronic filing system, except for a plant application:
By a small entity (§ 1.27(a)) $200.00
By other than a small entity $400.00
(2) A search fee (*see* 35 U.S.C. 361(d) and PCT Rule 16):
(i) For an international application having a receipt date that is on or after January 1, 2014:
By a micro entity (§ 1.29) $520.00
By a small entity (§ 1.27(a)) $1,040.00
By other than a small or micro entity $2,080.00
(ii) For an international application having a receipt date that is before January 1, 2014 ..... $2,080.00
(3) A supplemental search fee when required, per additional invention:
(i) For an international application having a receipt date that is on or after January 1, 2014:
By a micro entity (§ 1.29) $520.00
By a small entity (§ 1.27(a)) $1,040.00
By other than a small or micro entity $2,080.00
(ii) For an international application having a receipt date that is before January 1, 2014 ..... $2,080.00

(4) A fee equivalent to the transmittal fee in paragraph (a)(1) of this section that would apply if the USPTO was the Receiving Office for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office (PCT Rule 19.4).

(b) The international filing fee shall be as prescribed in PCT Rule 15.

■ 5. Section 1.482 is revised to read as follows:

§ 1.482 International preliminary examination fees.

(a) The following fees and charges for international preliminary examination are established by the Director under the authority of 35 U.S.C. 376:

(1) The following preliminary examination fee is due on filing the Demand:

(i) If an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:
(A) For an international preliminary examination fee paid on or after January 1, 2014:
By a micro entity (§ 1.29) $150.00
By a small entity (§ 1.27(a)) $300.00
By other than a small or micro entity $600.00
(B) For an international preliminary examination fee paid before January 1, 2014 ..... $600.00
(ii) If the International Searching Authority for the international application was an authority other than the United States Patent and Trademark Office:
(A) For an international preliminary examination fee paid on or after January 1, 2014:
By a micro entity (§ 1.29) $190.00
By a small entity (§ 1.27(a)) $380.00
By other than a small or micro entity $760.00
(B) For an international preliminary examination fee paid before January 1, 2014 $750.00.
(2) An additional preliminary examination fee when required, per additional invention:
(i) If the international preliminary examination fee set forth in paragraph (a)(1) of this section was paid on or after January 1, 2014:
By a micro entity (§ 1.29) $150.00
By a small entity (§ 1.27(a)) $300.00
By other than a small or micro entity $600.00
(ii) If the international preliminary examination fee set forth in paragraph (a)(1) of this section was paid before January 1, 2014 ..... $600.00

(b) The handling fee is due on filing the Demand and shall be prescribed in PCT Rule 57.

PART 41—PRACTICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

■ 6. The authority citation for 37 CFR part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135, and Pub. L. 112–29.

■ 7. Section 41.37 is amended by revising paragraphs (a) and (b) to read as follows:

§ 41.37 Appeal brief.

(a) *Timing.* Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31. The appeal brief fee in an application or *ex parte* reexamination proceeding is $0.00, but if the appeal results in an examiner's answer, the appeal forwarding fee set forth in § 41.20(b)(4) must be paid within the time period specified in § 41.45 to avoid dismissal of an appeal.

(b) *Failure to file a brief.* On failure to file the brief within the period specified in paragraph (a) of this section, the appeal will stand dismissed.

* * * * *

■ 8. Section 41.45 is revised to read as follows:

§ 41.45 Appeal forwarding fee.

(a) *Timing.* Appellant in an application or *ex parte* reexamination proceeding must pay the fee set forth in § 41.20(b)(4) within the later of two months from the date of either the examiner's answer, or a decision refusing to grant a petition under § 1.181 of this chapter to designate a new ground of rejection in an examiner's answer.

(b) *Failure to pay appeal forwarding fee.* On failure to pay the fee set forth in § 41.20(b)(4) within the period specified in paragraph (a) of this section, the appeal will stand dismissed.

(c) *Extensions of time.* Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. *See* § 1.136(b) of this title for extensions of time to reply for patent applications and § 1.550(c) of this title for extensions of time to reply for *ex parte* reexamination proceedings.

Dated: March 14, 2013.

Teresa Stanek Rea,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 2013–06362 Filed 3–19–13; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2012–0356; FRL–9768–9]

Approval and Promulgation of Implementation Plans; State of Washington; Revised Format for Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format for materials submitted by the State of Washington that are incorporated by reference (IBR) into the Washington State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by the State of Washington and approved by EPA. This format revision will primarily affect the ''Identification of plan'' section, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office. EPA is also adding a table in the ''Identification of plan'' section which summarizes the approval actions that EPA has taken on the non-regulatory and quasi-regulatory portions of the Washington SIP.

DATES: This action is effective April 19, 2013.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

U.S. Environmental Protection Agency, Region 10, Office of Air, Waste, and Toxics (OAWT–107), 1200 Sixth Avenue, Seattle, Washington 98101;

Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave. NW., Washington, DC 20460; and

National Archives and Records Administration (NARA).

If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: 202–566–1742. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, (206) 553–0256, *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' are used, we mean EPA. Information is organized as follows:

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G. The Format of the New Identification of Plan Section
H. When a SIP Revision Becomes Federally Enforceable
I. The Historical Record of SIP Revision Approvals
II. What EPA Is Doing in This Action
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I. Background

A. What a SIP Is

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces SIPs

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions upon which EPA must formally act. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the Federally approved SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), title 40 of the Code of Federal Regulations (40 CFR part 52). The actual state regulations approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference'' (IBR'd) which means that EPA has approved a given state regulation with a specific effective date. This format allows both EPA and the public to know which measures are contained in a given SIP and ensures that the state is enforcing the regulations. It also allows EPA and the public to take enforcement action, should a state not enforce its SIP-approved regulations.

C. How the State and EPA Updates the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA must, from time to time, take action on SIP revisions containing new and/or revised regulations in order to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for IBR'ing Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR).

EPA began the process of developing: (1) A revised SIP document for each state that would be IBR'd under the provisions of title 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the ''Identification of Plan'' sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and ''Identification of Plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

D. How EPA Compiles the SIPs

The Federally-approved regulations, source-specific permits, and nonregulatory provisions (entirely or portions of) submitted by each state agency have been compiled by EPA into a ''SIP compilation.'' The SIP compilation contains the updated regulations, source-specific permits, and nonregulatory provisions approved by EPA through previous rulemaking actions in the **Federal Register**.

E. How EPA Organizes the SIP Compilation

Each compilation contains three parts. Part one contains the regulations, part

two contains the source-specific requirements that have been approved as part of the SIP, and part three contains nonregulatory provisions that have been EPA approved. Each part consists of a table of identifying information for each SIP-approved regulation, each SIP-approved source-specific permit, and each nonregulatory SIP provision. In this action, EPA is publishing the tables summarizing the applicable SIP requirements for Washington. The EPA Regional Offices have the primary responsibility for updating the compilations and ensuring their accuracy.

F. Where You Can Find a Copy of the SIP Compilation

EPA Region 10 developed and will maintain the compilation for Washington. A copy of the full text of Washington's regulatory and source-specific SIP compilation will also be maintained at NARA and EPA's Air Docket and Information Center.

G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the ''Identification of Plan'' section and included additional information to clarify the enforceable elements of the SIP. The revised Identification of Plan section contains five subsections:

1. Purpose and scope.
2. Incorporation by reference.
3. EPA-approved regulations and statutes.
4. EPA-approved source-specific permits.
5. EPA-approved nonregulatory and quasi-regulatory provisions such as air quality attainment plans, rate of progress plans, maintenance plans, monitoring networks, and small business assistance programs.

H. When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP become Federally enforceable as of the effective date of the revisions to paragraphs (c), (d), or (e) of the applicable Identification of Plan section found in each subpart of 40 CFR part 52.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA retains the original Identification of Plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two-year period, EPA will review its experience with the new system and enforceability of previously approved SIP measures and will decide whether or not to retain the Identification of Plan appendices for some further period. Although EPA is retaining the original Identification of Plan section, other sections of part 52 are either duplicative of the new Identification of Plan section or out of date. EPA is therefore removing sections 52.2479 ''Contents of the federally approved, State submitted implementation plan'', 52.2491 ''Section 110(a)(2) infrastructure requirements'', and 52.2499 ''Interstate Transport for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS'' as part of the general ''housekeeping'' discussed below.

II. What EPA Is Doing in This Action

Today's rule constitutes a ''housekeeping'' exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (63 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive

Orders for the underlying rules are discussed in previous actions taken on the State's rules.

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 802(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of March 20, 2013. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. The changes in format to the ''Identification of plan'' section for the State of Washington are not a 'major rule' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Washington SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these ''Identification of plan'' reorganization actions for Washington.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: December 17, 2012.

Dennis J. McLerran,

Regional Administrator, Region 10.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. Section 52.2470 is redesignated as § 52.2477 and a new § 52.2470 is added to read as follows:

§ 52.2470 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan for the State of Washington under section 110 of the Clean Air Act, 42 U.S.C. 7401–7671q and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.*

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 7, 2012, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 7, 2012, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 10 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of December 7, 2012.

(3) Copies of the materials incorporated by reference may be inspected at the Region 10 EPA Office at 1200 Sixth Avenue, Seattle WA, 98101; the EPA, Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave. NW., Washington, DC; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *EPA approved regulations and statutes.*

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–010	Policy and Purpose	3/22/91	6/2/95, 60 FR 28726	
173–400–020	Applicability	3/22/91	6/2/95, 60 FR 28726	
173–400–030	Definitions	3/22/91	6/2/95, 60 FR 28726	
173–400–040	General Standards for Maximum Emissions	3/22/91	6/2/95, 60 FR 28726	except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	3/22/91	6/2/95, 60 FR 28726	except the exception provision in (3).
173–400–060	Emission Standards for General Process Units	3/22/91	6/2/95, 60 FR 28726	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726	

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
173–400–091	Voluntary Limits on Emissions	9/20/93	6/2/95, 60 FR 28726	including all regulatory orders issued pursuant to this section.
173–400–100	Registration	9/20/93	6/2/95, 60 FR 28726	
173–400–105	Records, Monitoring and Reporting	9/20/93	6/2/95, 60 FR 28726	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726	
173–400–110	New Source Review (NSR)	9/20/93	6/2/95, 60 FR 28726	
173–400–112	Requirements for New Sources in Nonattainment Areas.	9/20/93	6/2/95, 60 FR 28726	except (8).
173–400–113	Requirements for New Sources in Attainment or Unclassifiable Areas.	9/20/93	6/2/95, 60 FR 28726	except (5).
173–400–151	Retrofit Requirements for Visibility Protection	3/22/91	6/2/95, 60 FR 28726	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726	
173–400–171	Public Involvement	9/20/93	6/2/95, 60 FR 28726	
173–400–190	Requirements for Nonattainment Areas	3/22/91	6/2/95, 60 FR 28726	
173–400–200	Creditable Stack Height & Dispersion Techniques.	3/22/91	6/2/95, 60 FR 28726	
173–400–205	Adjustment for Atmospheric Conditions	3/22/91	6/2/95, 60 FR 28726	
173–400–210	Emission Requirements of Prior Jurisdictions	3/22/91	6/2/95, 60 FR 28726	
173–400–220	Requirements for Board Members	3/22/91	6/2/95, 60 FR 28726	
173–400–230	Regulatory Actions	3/20/93	6/2/95, 60 FR 28726	
173–400–240	Criminal Penalties	3/22/91	6/2/95, 60 FR 28726	
173–400–250	Appeals	9/20/93	6/2/95, 60 FR 28726	
173–400–260	Conflict of Interest	3/22/91	6/2/95, 60 FR 28726	
Washington Administrative Code, Chapter 173–405—Kraft Pulp Mills				
173–405–012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578	
173–405–021	Definitions	3/22/91	1/15/93, 58 FR 4578	
173–405–040	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	except for sections (1)(b), (1)(c), (3)(b), (3)(c), (4), (7), (8) & (9).
173–405–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578	
173–405–061	More Restrictive Emission Standards	3/22/91	1/15/93, 58 FR 4578	
173–405–072	Monitoring Requirements	3/22/91	1/15/93, 58 FR 4578	except section (2).
173–405–077	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578	
173–405–078	Emission Inventory	3/22/91	1/15/93, 58 FR 4578	
173–405–086	New Source Review (NSR)	3/22/91	1/15/93, 58 FR 4578	
173–405–087	Prevention of Significant Deterioration (PSD)	3/22/91	1/15/93, 58 FR 4578	
173–405–091	Special Studies	3/22/91	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–410—Sulfite Pulping Mills				
173–410–012	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578	
173–410–021	Definitions	3/22/91	1/15/93, 58 FR 4578	
173–410–040	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	except the exception provision in (3) & section (5).
173–410–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578	
173–410–062	Monitoring Requirements	3/22/91	1/15/93, 58 FR 4578	
173–410–067	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578	
173–410–071	Emission Inventory	3/22/91	1/15/93, 58 FR 4578	
173–410–086	New Source Review (NSR)	3/22/91	1/15/93, 58 FR 4578	
173–410–087	Prevention of Significant Deterioration (PSD)	3/22/91	1/15/93, 58 FR 4578	
173–410–100	Special Studies	3/22/91	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–415—Primary Aluminum Plants				
173–415–010	Statement of Purpose	3/22/91	1/15/93, 58 FR 4578	
173–415–020	Definitions	3/22/91	1/15/93, 58 FR 4578	except sections (1) & (2).
173–415–030	Emissions Standards	3/22/91	1/15/93, 58 FR 4578	except sections (1) & (3)(b).
173–415–045	Creditable Stack Height & Dispersion Techniques.	3/22/91	1/15/93, 58 FR 4578	
173–415–050	New Source Review (NSR)	3/22/91	1/15/93, 58 FR 4578	
173–415–051	Prevention of Significant Deterioration (PSD)	3/22/91	1/15/93, 58 FR 4578	
173–415–060	Monitoring and Reporting	3/22/91	1/15/93, 58 FR 4578	except sections (1)(a), (b), & (d).

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
173–415–070	Report of Startup, Shutdown, Breakdown or Upset Conditions.	3/22/91	1/15/93, 58 FR 4578	
173–415–080	Emission Inventory	3/22/91	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–422—Motor Vehicle Emission Inspection				
173–422–010	Purpose	6/3/93	9/25/96, 61 FR 50235	
173–422–020	Definitions	3/31/95	9/25/96, 61 FR 50235	
173–422–030	Vehicle Emission Inspection Requirement	11/9/96	5/19/97, 62 FR 27204	
173–422–031	Vehicle Emission Inspection Schedules	12/2/00	5/12/05, 70 FR 24491	
173–422–035	Registration Requirements	3/31/95	9/25/96, 61 FR 50235	
173–422–040	Noncompliance Areas	6/3/93	9/25/96, 61 FR 50235	
173–422–050	Emission Contributing Areas	11/9/96	5/19/97, 62 FR 27204	
173–422–060	Gasoline Vehicle Emission Standards	11/9/96	5/19/97, 62 FR 27204	
173–422–065	Diesel Vehicle Exhaust Emission Standards	3/31/95	9/25/96, 61 FR 50235	
173–422–070	Gasoline Vehicle Exhaust Emission Testing Procedures.	11/9/96	5/19/97, 62 FR 27204	
173–422–075	Diesel Vehicle Inspection Procedure	3/11/94	9/25/96, 61 FR 50235	
173–422–090	Exhaust Gas Analyzer Specifications	3/31/95	9/25/96, 61 FR 50235	
173–422–095	Exhaust Opacity Testing Equipment	3/11/94	9/25/96, 61 FR 50235	
173–422–100	Testing Equipment Maintenance and Calibration	3/31/95	9/25/96, 61 FR 50235	
173–422–120	Quality Assurance	3/31/95	9/25/96, 61 FR 50235	
173–422–130	Inspection Fees	3/11/94	9/25/96, 61 FR 50235	
173–422–145	Fraudulent Certificates of Compliance/Acceptance.	4/6/90	9/25/96, 61 FR 50235	
173–422–160	Fleet and Diesel Owner Vehicle Testing Requirements.	3/31/95	9/25/96, 61 FR 50235	
173–422–170	Exemptions	12/2/00	5/12/05, 70 FR 24491	
173–422–175	Fraudulent Exemptions	1/2/84	9/25/96, 61 FR 50235	
173–422–190	Emission Specialist Authorization	11/9/96	5/19/97, 62 FR 27204	
173–422–195	Listing of Authorized Emission Specialists	3/31/95	9/25/96, 61 FR 50235	
Washington Administrative Code, Chapter 173–425—Open Burning				
173–425–010	Purpose	10/18/90	1/15/93, 58 FR 4578	
173–425–020	Applicability	10/18/90	1/15/93, 58 FR 4578	
173–425–030	Definitions	10/18/90	1/15/93, 58 FR 4578	
173–425–036	Curtailment During Episodes or Impaired Air Quality.	10/18/90	1/15/93, 58 FR 4578	
173–425–045	Prohibited Materials	1/3/89	1/15/93, 58 FR 4578	
173–425–055	Exceptions	10/18/90	1/15/93, 58 FR 4578	
173–425–065	Residential Open Burning	10/18/90	1/15/93, 58 FR 4578	
173–425–075	Commercial Open Burning	10/18/90	1/15/93, 58 FR 4578	
173–425–085	Agricultural Open Burning	10/18/90	1/15/93, 58 FR 4578	
173–425–095	No Burn Area Designation	10/18/90	1/15/93, 58 FR 4578	
173–425–100	Delegation of Agricultural Open Burning Program.	10/18/90	1/15/93, 58 FR 4578	
173–425–115	Land Clearing Projects	10/18/90	1/15/93, 58 FR 4578	
173–425–120	Department of Natural Resources Smoke Management Plan.	10/18/90	1/15/93, 58 FR 4578	
173–425–130	Notice of Violation	10/18/90	1/15/93, 58 FR 4578	
173–425–140	Remedies	10/18/90	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–430—Burning of Field and Forage and Turf Grasses Grown for Seed Open Burning				
173–430–010	Purpose	10/18/90	1/15/93, 58 FR 4578	
173–430–020	Definitions	10/18/90	1/15/93, 58 FR 4578	
173–430–030	Permits, Conditions, and Restrictions	10/18/90	1/15/93, 58 FR 4578	
173–430–040	Mobile Field Burners	10/18/90	1/15/93, 58 FR 4578	
173–430–050	Other Approvals	10/18/90	1/15/93, 58 FR 4578	
173–430–060	Study of Alternatives	10/18/90	1/15/93, 58 FR 4578	
173–430–070	Fees	10/18/90	1/15/93, 58 FR 4578	
173–430–080	Certification of Alternatives	10/18/90	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–433—Solid Fuel Burning Device Standards				
173–433–010	Purpose	12/16/87	1/15/93, 58 FR 4578	
173–433–020	Applicability	12/16/87	1/15/93, 58 FR 4578	
173–433–030	Definitions	10/18/90	1/15/93, 58 FR 4578	
173–433–100	Emission Performance Standards	10/18/90	1/15/93, 58 FR 4578	
173–433–110	Opacity Standards	10/18/90	1/15/93, 58 FR 4578	

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
173–433–120	Prohibited Fuel Types	10/18/90	1/15/93, 58 FR 4578	
173–433–130	General Emission Standards	10/18/90	1/15/93, 58 FR 4578	
173–433–150	Curtailment	10/18/90	1/15/93, 58 FR 4578	
173–433–170	Retail Sales Fee	1/3/89	1/15/93, 58 FR 4578	
173–433–200	Regulatory Actions and Penalties	10/18/90	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–434—Solid Waste Incinerator Facilities				
173–434–010	Purpose	10/18/90	1/15/93, 58 FR 4578	
173–434–020	Applicability and Compliance	1/22/04	8/4/05, 70 FR 44855	
173–434–030	Definitions	1/22/04	8/4/05, 70 FR 44855	
173–434–090	Operation and Maintenance Plan	10/18/90	1/15/93, 58 FR 4578	
173–434–110	Standards of Performance	1/22/04	8/4/05, 70 FR 44855	except section (1)(a).
173–434–130	Emission Standards	1/22/04	8/4/05, 70 FR 44855	except section (2).
173–434–160	Design and Operation	1/22/04	8/4/05, 70 FR 44855	
173–434–170	Monitoring and Reporting	1/22/04	8/4/05, 70 FR 44855	
173–434–190	Changes in Operation	1/22/04	8/4/05, 70 FR 44855	
173–434–200	Emission Inventory	1/22/04	8/4/05, 70 FR 44855	
173–434–210	Special Studies	10/18/90	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–435—Emergency Episode Plan				
173–435–010	Purpose	1/3/89	1/15/93, 58 FR 4578	
173–435–015	Significant Harm Levels	1/3/89	1/15/93, 58 FR 4578	
173–435–020	Definitions	1/3/89	1/15/93, 58 FR 4578	
173–435–030	Episode Stage Criteria	1/3/89	1/15/93, 58 FR 4578	
173–435–040	Source Emission Reduction Plans	1/3/89	1/15/93, 58 FR 4578	
173–435–050	Action Procedures	1/3/89	1/15/93, 58 FR 4578	
173–435–060	Enforcement	1/3/89	1/15/93, 58 FR 4578	
173–435–070	Sampling Sites, Equipment and Methods	1/3/89	1/15/93, 58 FR 4578	except section (1).
Washington Administrative Code, Chapter 173–470—Ambient Air Quality Standards for Particulate Matter				
173–470–010	Purpose	9/16/87	1/15/93, 58 FR 4578	
173–470–020	Applicability	9/16/87	1/15/93, 58 FR 4578	
173–470–030	Definitions	1/3/89	1/15/93, 58 FR 4578	
173–470–100	Ambient Air Quality Standards	1/3/89	1/15/93, 58 FR 4578	
173–470–160	Reporting of Data	9/16/87	1/15/93, 58 FR 4578	
Washington Administrative Code, Chapter 173–490—Emission Standards and Controls for Sources Emitting Volatile Organic Compounds				
173–490–010	Policy and Purpose	3/22/91	7/12/93, 58 FR 37426	
173–490–020	Definitions	3/22/91	7/12/93, 58 FR 37426	
173–490–025	General Applicability	3/22/91	7/12/93, 58 FR 37426	
173–490–030	Registration and Reporting	3/22/91	7/12/93, 58 FR 37426	
173–490–040	Requirements	3/22/91	7/12/93, 58 FR 37426	
173–490–080	Exceptions and Alternative Methods	3/22/91	7/12/93, 58 FR 37426	
173–490–090	New Source Review (NSR)	3/22/91	7/12/93, 58 FR 37426	
173–490–200	Petroleum Refinery Equipment Leaks	3/22/91	7/12/93, 58 FR 37426	
173–490–201	Petroleum Liquid Storage in External Floating Roof Tanks.	3/22/91	7/12/93, 58 FR 37426	
173–490–202	Leaks from Gasoline Transport Tanks and Vapor Collection System.	3/22/91	7/12/93, 58 FR 37426	
173–490–203	Perchloroethylene Dry Cleaning Systems	3/22/91	7/12/93, 58 FR 37426	
173–490–204	Graphic Arts System	3/22/91	7/12/93, 58 FR 37426	
173–490–205	Surface Coating of Miscellaneous Metal Parts and Products.	3/22/91	7/12/93, 58 FR 37426	
173–490–207	Surface Coating of Flatwood Paneling	3/22/91	7/12/93, 58 FR 37426	
173–490–208	Aerospace Assembly and Component Coating Operations.	3/22/91	7/12/93, 58 FR 37426	
Washington Administrative Code, Chapter 173–492—Motor Fuel Specifications for Oxygenated Gasoline				
173–492–010	Policy and Purpose	10/19/96	4/30/97, 62 FR 23363	
173–492–020	Applicability	12/1/92	4/30/97, 62 FR 23363	
173–492–030	Definitions	12/1/92	4/30/97, 62 FR 23363	
173–492–040	Compliance Requirements	12/1/92	4/30/97, 62 FR 23363	
173–492–050	Registration Requirements	10/19/96	4/30/97, 62 FR 23363	
173–492–060	Labeling Requirements	12/1/92	4/30/97, 62 FR 23363	
173–492–070	Control Areas and Control Periods	10/19/96	4/30/97, 62 FR 23363	

TABLE 1—WASHINGTON DEPARTMENT OF ECOLOGY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
173–492–080	Enforcement and Compliance	12/1/92	4/30/97, 62 FR 23363	
173–492–090	Unplanned Conditions	12/1/92	4/30/97, 62 FR 23363	
173–492–100	Severability	12/1/92	4/30/97, 62 FR 23363	

TABLE 2—ENERGY FACILITIES SITE EVALUATION COUNCIL REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
Washington Administrative Code, Chapter 463–39—General Regulations for Air Pollution Sources				
463–39–005	Adoption by Reference	9/21/95	5/23/96, 61 FR 25791	except sections (2), (3) & (4).
463–39–010	Purpose	5/3/92	5/23/96, 61 FR 25791	
463–39–020	Applicability	9/21/95	5/23/96, 61 FR 25791	
463–39–030	Additional Definitions	9/21/95	5/23/96, 61 FR 25791	
463–39–095	Permit Issuance	9/21/95	5/23/96, 61 FR 25791	
463–39–100	Registration	12/11/93	5/23/96, 61 FR 25791	
463–39–120	Monitoring and Special Report	9/21/95	5/23/96, 61 FR 25791	
463–39–135	Criminal Penalties	8/6/79	5/23/96, 61 FR 25791	
463–39–170	Conflict of Interest	8/6/79	5/23/96, 61 FR 25791	
463–39–230	Regulatory Actions	8/26/94	5/23/96, 61 FR 25791	

TABLE 3—NORTHWEST CLEAN AIR AGENCY REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
General Provisions				
100	Name of Authority	9/8/93	2/22/95, 60 FR 9778	
101	Short Title	9/8/93	2/22/95, 60 FR 9778	
102	Policy	9/8/93	2/22/95, 60 FR 9778	
103	Duties & Powers	9/8/93	2/22/95, 60 FR 9778	
104	Adoption of State/Federal Laws and Rules	11/13/94	10/24/95, 60 FR 54439.	except section 104.2.
105	Separability	9/8/93	2/22/95, 60 FR 9778	
106	Public Records	9/8/93	2/22/95, 60 FR 9778	
110	Investigation and Studies	9/8/93	2/22/95, 60 FR 9778	
111	Interference or Obstruction	9/8/93	2/22/95, 60 FR 9778	
112	False and Misleading Oral Statements	9/8/93	2/22/95, 60 FR 9778	
113	Service of Notice	9/8/93	2/22/95, 60 FR 9778	
114	Confidential Information	9/8/93	2/22/95, 60 FR 9778	
120	Hearings	9/8/93	2/22/95, 60 FR 9778	
121	Orders	9/8/93	2/22/95, 60 FR 9778	
122	Appeals from Orders or Violations	9/8/93	2/22/95, 60 FR 9778	
123	Status of Orders on Appeal	9/8/93	2/22/95, 60 FR 9778	
124	Display of Orders	9/8/93	2/22/95, 60 FR 9778	
130	Citations—Notices	9/8/93	2/22/95, 60 FR 9778	
131	Violations—Notices	9/8/93	2/22/95, 60 FR 9778	
132	Criminal Penalty	11/13/94	10/24/95, 60 FR 54439.	
133	Civil Penalty	11/13/94	10/24/95, 60 FR 54439.	
134	Restraining Orders—Injunction	9/8/93	2/22/95, 60 FR 9778	
135	Additional Enforcement—Compliance Schedules	9/8/93	2/22/95, 60 FR 9778	
140	Reporting by Government Agencies	9/8/93	2/22/95, 60 FR 9778	
145	Motor Vehicle Owner Responsibility	9/8/93	2/22/95, 60 FR 9778	
150	Pollutant Disclosure—Reporting by Air Containment Sources	9/8/93	2/22/95, 60 FR 9778	
180	Sampling and Analytical Methods/References	9/8/93	2/22/95, 60 FR 9778	
Definitions				
200	Definitions	11/13/94	10/24/95, 60 FR 54439.	
Control Procedures				
300	Notice of Construction When Required	11/13/94	10/24/95, 60 FR 54439.	

TABLE 3—NORTHWEST CLEAN AIR AGENCY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
301	Information Required for Notice of Construction & Application for Approval, Public Notice, Public Hearing.	11/13/94	10/24/95, 60 FR 54439.	
302	Issuance of Approval or Order	11/13/94	10/24/95, 60 FR 54439.	
303	Notice of Completion—Notice of Violation	9/8/93	2/22/95, 60 FR 9778	
310	Approval to Operate Required	9/8/93	2/22/95, 60 FR 9778	
320	Registration Required	9/8/93	2/22/95, 60 FR 9778	
321	General Requirements for Registration	9/8/93	2/22/95, 60 FR 9778	
322	Exemptions from Registration	11/13/94	10/24/95, 60 FR 54439.	
323	Classes of Registration	9/8/93	2/22/95, 60 FR 9778	
324	Fees	11/13/94	10/24/95, 60 FR 54439.	except section 324.121.
325	Transfer	9/8/93	2/22/95, 60 FR 9778	
340	Report of Breakdown and Upset	11/13/94	10/24/95, 60 FR 54439.	
341	Schedule Report of Shutdown or Start-Up	9/8/93	2/22/95, 60 FR 9778	
342	Operation and Maintenance	9/8/93	2/22/95, 60 FR 9778	
360	Testing and Sampling	9/8/93	2/22/95, 60 FR 9778	
365	Monitoring	9/8/93	2/22/95, 60 FR 9778	
366	Instrument Calibration	9/8/93	2/22/95, 60 FR 9778	
Standards				
400	Ambient Air Standards—Forward	9/8/93	2/22/95, 60 FR 9778	
401	Suspended Particulate Standards (PM–10)	9/8/93	2/22/95, 60 FR 9778	
410	Sulfur Oxide Standards	9/8/93	2/22/95, 60 FR 9778	
420	Carbon Monoxide Standards	9/8/93	2/22/95, 60 FR 9778	
422	Nitrogen Oxide Standards	9/8/93	2/22/95, 60 FR 9778	
424	Ozone Standards	9/8/93	2/22/95, 60 FR 9778	
450	Emission Standards—Forward	9/8/93	2/22/95, 60 FR 9778	
451	Emission of Air Contaminant—Visual Standards	11/13/94	10/24/95, 60 FR 54439.	
452	Motor Vehicle Visual Standards	9/8/93	2/22/95, 60 FR 9778	except section 452.5.
455	Emission of Particulate Matter	9/8/93	2/22/95, 60 FR 9778	
458	Incinerators—Wood Waste Burners	9/8/93	2/22/95, 60 FR 9778	
460	Weight/Heat Rate Standard—Emission of Sulfur Compounds	9/8/93	2/22/95, 60 FR 9778	
462	Emission of Sulfur Compounds	11/13/94	10/24/95, 60 FR 54439.	
466	Portland Cement Plants	9/8/93	2/22/95, 60 FR 9778	
Regulated Activities and Prohibitions				
510	Incinerator Burning	9/8/93	2/22/95, 60 FR 9778	
520	Sulfur Compounds in Fuel	9/8/93	2/22/95, 60 FR 9778	
550	Particulate Matter from Becoming Airborne	9/8/93	2/22/95, 60 FR 9778	
560	Storage of Organic Liquids	9/8/93	2/22/95, 60 FR 9778	
580	Volatile Organic Compound Control (VOC)	11/13/94	10/24/95, 60 FR 54439.	

TABLE 4—PUGET SOUND CLEAN AIR AGENCY REGULATIONS

State citation	Title/Subject	State adopted date	EPA Approval date	Explanations
Regulation I—Article 1: Policy, Short Title, and Definitions				
1.01	Policy	9/9/99	8/31/04, 69 FR 53007	
1.03	Name of Agency	9/9/99	8/31/04, 69 FR 53007	
1.05	Short Title	9/9/99	8/31/04, 69 FR 53007	
1.07	Definitions	4/14/94	6/29/95, 60 FR 33734	
Regulation I—Article 3: General Provisions				
3.04	Reasonably Available Control Technology	3/11/99	8/31/04, 69 FR 53007	except (e).
3.06	Credible Evidence	10/8/98	8/31/04, 69 FR 53007	
Regulation I—Article 5: Registration				
5.02	Applicability and Purpose of the Registration Program	9/12/96	8/6/97, 62 FR 42216	

TABLE 4—PUGET SOUND CLEAN AIR AGENCY REGULATIONS—Continued

State citation	Title/Subject	State adopted date	EPA Approval date	Explanations
5.03	Registration Required	7/8/99	8/31/04, 69 FR 53007	except (a)(5).
5.05	General Reporting Requirements for Registration	9/10/98	8/31/04, 69 FR 53007	
Regulation I—Article 6: New Source Review				
6.03	Notice of Construction	9/12/96	8/6/97, 62 FR 42216	
6.04	Notice of Construction Review Fees	9/11/97	4/21/98, 63 FR 19658	
6.06	Public Notice	4/14/94	6/29/95, 60 FR 33734	
6.07	Order of Approval—Order to Prevent Construction	4/14/94	6/29/95, 60 FR 33734	
6.08	Emission Reduction Credit Banking	11/19/92	8/29/94, 59 FR 44324	
6.09	Notice of Completion	4/14/94	6/29/95, 60 FR 33734	
6.10	Work Done without an Approval	9/11/97	4/21/98, 63 FR 19658	
Regulation I—Article 7: Operating Permits				
7.09	General Reporting Requirements for Operating Permits	9/10/98	8/31/04, 69 FR 53007	
Regulation I—Article 8: Outdoor Burning				
8.04	General Conditions for Outdoor Burning	11/9/00	8/31/04, 69 FR 53007	
8.05	Agricultural Burning	11/9/00	8/31/04, 69 FR 53007	
8.06	Outdoor Burning Ozone Contingency Measure	12/19/02	8/5/04, 69 FR 47364	
8.09	Description of King County No-Burn Area	11/9/00	8/31/04, 69 FR 53007	
8.10	Description of Pierce County No-Burn Area	11/9/00	8/31/04, 69 FR 53007	
8.11	Description of Snohomish County No-Burn Area	11/9/00	8/31/04, 69 FR 53007	
8.12	Description of Kitsap County No-Burn Area	10/24/02	8/31/04, 69 FR 53007	
Regulation I—Article 9: Emission Standards				
9.03	Emission of Air Contaminant: Visual Standard	3/11/99	8/31/04, 69 FR 53007	except (e).
9.04	Opacity Standards for Equipment with Continuous Opacity Monitoring Systems.	4/9/98	8/31/04, 69 FR 53007	except (d)(2) & (f).
9.05	Refuse Burning	12/9/93	6/29/95, 60 FR 33734	
9.07	Sulfur Dioxide Emission Standard	4/14/94	6/29/95, 60 FR 33734	
9.08	Fuel Oil Standards	4/14/94	6/29/95, 60 FR 33734	
9.09	Particulate Matter Emission Standards	4/9/98	8/31/04, 69 FR 53007	
9.15	Fugitive Dust Control Measures	3/11/99	8/31/04, 69 FR 53007	
9.16	Spray-Coating Operations	7/12/01	8/31/04, 69 FR 53007	
9.20	Maintenance of Equipment	6/9/88	8/29/94, 59 FR 44324	
Regulation I—Article 12: Standards of Performance for Continuous Emission Monitoring Systems				
12.01	Applicability	4/9/98	8/31/04, 69 FR 53007	
12.03	Continuous Emission Monitoring Systems	4/9/98	8/31/04, 69 FR 53007	except (b)(2).
Regulation I—Article 13: Solid Fuel Burning Device Standards				
13.01	Policy and Purpose	9/9/99	8/31/04, 69 FR 53007	
13.02	Definitions	10/8/98	8/31/04, 69 FR 53007	
13.03	Opacity Standards	10/11/90	8/29/94, 59 FR 44324	
13.04	Prohibited Fuel Types	9/26/91	8/29/94, 59 FR 44324	
13.05	Curtailment	9/26/91	8/29/94, 59 FR 44324	
13.07	Contingency Plan	12/8/94	10/26/95, 60 FR 54812.	
Regulation II—Article 1: Purpose, Policy, Short Title, and Definitions				
1.01	Purpose	9/9/99	8/31/04, 69 FR 53007	
1.02	Policy	9/9/99	8/31/04, 69 FR 53007	
1.03	Short Title	9/9/99	8/31/04, 69 FR 53007	
1.04	General Definitions	12/11/80	2/28/83, 48 FR 8273	
1.05	Special Definitions	9/9/99	8/31/04, 69 FR 53007	
Regulation II—Article 2: Gasoline Marketing Emission Standards				
2.01	Definitions	7/8/99	8/31/04, 69 FR 53007	
2.03	Petroleum Refineries	6/13/91	8/29/94, 59 FR 44324	
2.05	Gasoline Loading Terminals	12/9/93	6/29/95, 60 FR 33734	
2.06	Bulk Gasoline Plants	6/13/91	8/29/94, 59 FR 44324	
2.07	Gasoline Stations	12/9/99	8/31/04, 69 FR 53007	
2.08	Gasoline Transport Tanks	7/8/99	8/31/04, 69 FR 53007	

TABLE 4—PUGET SOUND CLEAN AIR AGENCY REGULATIONS—Continued

State citation	Title/Subject	State adopted date	EPA Approval date	Explanations
2.09	Oxygenated Gasoline Carbon Monoxide Contingency Measure and Fee Schedule.	12/19/02	8/5/04, 69 FR 47365	
2.10	Gasoline Station Ozone Contingency Measure	12/19/02	8/5/04, 69 FR 47365	
Regulation II—Article 3: Miscellaneous Volatile Organic Compound Emission Standards				
3.01	Cutback Asphalt Paving	6/13/91	8/29/94, 59 FR 44324	
3.02	Volatile Organic Compound Storage Tanks	7/8/99	8/31/04, 69 FR 53007	
3.03	Can and Paper Coating Operations	2/10/94	6/29/95, 60 FR 33734	
3.04	Motor Vehicle and Mobile Equipment Coating Operations	12/9/93	6/29/95, 60 FR 33734	
3.05	Graphic Arts Systems	12/9/93	6/29/95, 60 FR 33734	
3.08	Polyester, Vinylester, Gelcoat, and Resin Operations	12/9/93	6/29/95, 60 FR 33734	
3.09	Aerospace Component Coating Operations	12/9/93	6/29/95, 60 FR 33734	
3.11	Coatings and Ink Manufacturing	4/11/96	3/20/97, 62 FR 13331	

TABLE 5—SPOKANE REGIONAL CLEAN AIR AGENCY REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
Regulation I—Article VI—Emissions Prohibited				
6.05	Particulate Matter & Preventing Particulate Matter from becoming Airborne.	11/12/93	1/27/97, 62 FR 3800	
6.14	Standards for Control of Particulate Matter on Paved Surfaces.	2/13/99	4/12/99, 64 FR 17545	
6.15	Standards for Control of Particulate Matter on Unpaved Roads.	2/13/99	4/12/99, 64 FR 17545	
6.16	Motor Fuel Specifications for Oxygenated Gasoline	7/6/95	9/22/97, 62 FR 49442 *.	* correction: 12/31/97, 62 FR 68187.
Regulation I—Article VIII—Solid Fuel Burning Device Standards				
8.01	Purpose	9/10/94	1/27/97, 62 FR 3800	
8.02	Applicability	9/10/94	1/27/97, 62 FR 3800	
8.03	Definitions	9/10/94	1/27/97, 62 FR 3800	
8.04	Emission Performance Standards	9/10/94	1/27/97, 62 FR 3800	
8.05	Opacity Standards	9/10/94	1/27/97, 62 FR 3800	
8.06	Prohibited Fuel Types	9/10/94	1/27/97, 62 FR 3800	
8.07	Curtailment	9/10/94	1/27/97, 62 FR 3800	
8.08	Exemptions	9/10/94	1/27/97, 62 FR 3800	
8.09	Procedure to Geographically Limit Solid Fuel Burning Devices.	9/10/94	1/27/97, 62 FR 3800	
8.10	Restrictions on Installation of Solid Fuel Burning Devices	9/10/94	1/27/97, 62 FR 3800	
8.11	Regulatory Actions and Penalties	9/10/94	1/27/97, 62 FR 3800	
Regulation II—Article IV—Emissions Prohibited				
4.01	Particulate Emissions—Grain Loading Restrictions	4/26/79	6/5/80, 45 FR 37821	

TABLE 6—SOUTHWEST CLEAN AIR AGENCY REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
General Regulations for Air Pollution Sources				
400–010	Policy and Purpose	9/21/95	2/26/97, 62 FR 8624	
400–020	Applicability	9/21/95	2/26/97, 62 FR 8624	
400–030	Definitions	11/21/96	5/19/97, 62 FR 27204	except 2nd sentence in two subsections (14) & (49), subsection (84).
400–040	General Standards for Maximum Emissions	9/21/95	2/26/97, 62 FR 8624	except (1)(c), and (1)(d), (2), (4), and the exception provision of (6)(a).
400–050	Emission Standards for Combustion and Incineration Units.	9/21/95	2/26/97, 62 FR 8624	except the exception provision in (3).
400–052	Stack Sampling of Major Combustion Sources.	9/21/95	2/26/97, 62 FR 8624	

TABLE 6—SOUTHWEST CLEAN AIR AGENCY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
400–060	Emission Standards for General Process Units.	9/21/95	2/26/97, 62 FR 8624	
400–070	Emission Standards for Certain Source Categories.	9/21/95	2/26/97, 62 FR 8624	except (5).
400–074	Gasoline Transport Tankers	9/21/95	2/26/97, 62 FR 8624	
400–081	Startup and Shutdown	9/21/95	2/26/97, 62 FR 8624	
400–090	Voluntary Limits on Emissions	11/8/93	5/3/95, 60 FR 21703	
400–091	Voluntary Limits on Emissions	9/21/95	2/26/97, 62 FR 8624	
400–100	Registration and Operating Permits	9/21/95	2/26/97, 62 FR 8624	except the first sentence of (3)(a)(iv) & (4).
400–101	Sources Exempt from Registration Requirements.	11/21/96	5/19/97, 62 FR 27204	
400–105	Records, Monitoring and Reporting	9/21/95	2/26/97, 62 FR 8624	
400–107	Excess Emissions	9/21/95	2/26/97, 62 FR 8624	
400–109	Notice of Construction Application	11/21/96	5/19/97, 62 FR 27204	except subsections (3)(b), (3)(c), (3)(g), (3)(h), (3)(i).
400–110	New Source Review	11/21/96	5/19/97, 62 FR 27204	
400–111	Requirements for Sources in a Maintenance Plan Area.	11/21/96	5/19/97, 62 FR 27204	
400–112	Requirements for New Sources in Nonattainment Areas.	11/21/96	5/19/97, 62 FR 27204	
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	11/21/96	5/19/97, 62 FR 27204	
400–114	Requirements for Replacement or Substantial Alteration for Emission Control Technology at an Existing Stationary Source.	11/21/96	5/19/97, 62 FR 27204	
400–116	Maintenance of Equipment	11/21/96	5/19/97, 62 FR 27204	
400–151	Retrofit Requirements for Visibility Protection	9/21/95	2/26/97, 62 FR 8624	
400–161	Compliance Schedules	9/21/95	2/26/97, 62 FR 8624	
400–171	Public Involvement	9/21/95	2/26/97, 62 FR 8624	
400–190	Requirements for Nonattainment Areas	11/21/96	5/19/97, 62 FR 27204	
400–200	Creditable Stack Height & Dispersion Techniques.	9/21/95	2/26/97, 62 FR 8624	
400–205	Adjustment for Atmospheric Conditions	9/21/95	2/26/97, 62 FR 8624	
400–210	Emission Requirements of Prior Jurisdictions	9/21/95	2/26/97, 62 FR 8624	
400–220	Requirements for Board Members	9/21/95	2/26/97, 62 FR 8624	
400–230	Regulatory Actions & Civil Penalties	9/21/95	2/26/97, 62 FR 8624	
400–240	Criminal Penalties	9/21/95	2/26/97, 62 FR 8624	
400–250	Appeals	9/21/95	2/26/97, 62 FR 8624	
400–260	Conflict of Interest	9/21/95	2/26/97, 62 FR 8624	
400–270	Confidentiality of Records & Information	9/21/95	2/26/97, 62 FR 8624	
400–280	Powers of Authority	9/21/95	2/26/97, 62 FR 8624	
Emission Standards and Controls for Sources Emitting Volatile Organic Compounds				
490–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204	
490–020	Definitions	11/21/96	5/19/97, 62 FR 27204	
490–025	General Applicability	11/21/96	5/19/97, 62 FR 27204	
490–030	Registration and Reporting	11/21/96	5/19/97, 62 FR 27204	
490–040	Requirements	11/21/96	5/19/97, 62 FR 27204	
490–080	Exceptions & Alternative Methods	11/21/96	5/19/97, 62 FR 27204	
490–090	New Source Review	11/21/96	5/19/97, 62 FR 27204	
490–200	Petroleum Refinery Equipment Leaks	11/21/96	5/19/97, 62 FR 27204	
490–201	Petroleum Liquid Storage in External Floating Roof Tanks.	11/21/96	5/19/97, 62 FR 27204	
490–202	Leaks from Gasoline Transport Tanks and Vapor Collection Systems.	11/21/96	5/19/97, 62 FR 27204	
490–203	Perchloroethylene Dry Cleaning Systems	11/21/96	5/19/97, 62 FR 27204	
490–204	Graphic Arts Systems	11/21/96	5/19/97, 62 FR 27204	
490–205	Surface Coating of Miscellaneous Metal Parts and Products.	11/21/96	5/19/97, 62 FR 27204	
490–207	Surface Coating of Flatwood Paneling	11/21/96	5/19/97, 62 FR 27204	
490–208	Aerospace Assembly & Component Coating Operations.	11/21/96	5/19/97, 62 FR 27204	
Emissions Standards and Controls for Sources Emitting Gasoline Vapors				
491–010	Policy and Purpose	11/21/96	5/19/97, 62 FR 27204	
491–015	Applicability	11/21/96	5/19/97, 62 FR 27204	
491–020	Definitions	11/21/96	5/19/97, 62 FR 27204	

TABLE 6—SOUTHWEST CLEAN AIR AGENCY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
491–030	Registration	11/21/96	5/19/97, 62 FR 27204	
491–040	Gasoline Vapor Control Requirements	11/21/96	5/19/97, 62 FR 27204	
491–050	Failures, Certification, Testing & Record-keeping.	11/21/96	5/19/97, 62 FR 27204	
491–060	Severability	11/21/96	5/19/97, 62 FR 27204	
	Oxygenated Fuels			
492–010	Policy and Purpose	11/21/96	4/30/97, 62 FR 23363	
492–020	Applicability	11/21/96	4/30/97, 62 FR 23363	
492–030	Definitions	11/21/96	4/30/97, 62 FR 23363	
492–040	Compliance Requirements	11/21/96	4/30/97, 62 FR 23363	
492–050	Registration Requirements	11/21/96	4/30/97, 62 FR 23363	
492–060	Labeling Requirements	11/21/96	4/30/97, 62 FR 23363	
492–070	Control Area and Control Period	11/21/96	4/30/97, 62 FR 23363	
492–080	Enforcement and Compliance	11/21/96	4/30/97, 62 FR 23363	
492–090	Unplanned Conditions	11/21/96	4/30/97, 62 FR 23363	
492–100	Severability	11/21/96	4/30/97, 62 FR 23363	
	VOC Area Source Rules			
493–100	Consumer Products (Reserved)	05/26/96	5/19/97, 62 FR 27204	
493–200–010.	Applicability	05/26/96	5/19/97, 62 FR 27204	
493–200–020.	Definitions	05/26/96	5/19/97, 62 FR 27204	
493–200–030.	Spray Paint Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204	
493–200–040.	Requirements for Manufacture, Sale and Use of Spray Paint.	05/26/96	5/19/97, 62 FR 27204	
493–200–050.	Recordkeeping & Reporting Requirements	05/26/96	5/19/97, 62 FR 27204	
493–200–060.	Inspection and Testing Requirements	05/26/96	5/19/97, 62 FR 27204	
493–300–010.	Applicability	5/26/96	5/19/97, 62 FR 27204	
493–300–020.	Definitions	5/26/96	5/19/97, 62 FR 27204	
493–300–030.	Standards	5/26/96	5/19/97, 62 FR 27204	
493–300–040.	Requirements for Manufacture, Sale and Use of Architectural Coatings.	5/26/96	5/19/97, 62 FR 27204	
493–300–050.	Recordkeeping & Reporting Requirements	5/26/96	5/19/97, 62 FR 27204	
493–300–060.	Inspection and Testing Requirements	5/26/96	5/19/97, 62 FR 27204	
493–400–010.	Applicability	05/26/96	5/19/97, 62 FR 27204	
493–400–020.	Definitions	05/26/96	5/19/97, 62 FR 27204	
493–400–030.	Coating Standards & Exemptions	05/26/96	5/19/97, 62 FR 27204	
493–400–040.	Requirements for Manufacture & Sale of Coating.	05/26/96	5/19/97, 62 FR 27204	
493–400–050.	Requirements for Motor Vehicle Refinishing in Vancouver AQMA.	05/26/96	5/19/97, 62 FR 27204	
493–400–060.	Recordkeeping and Reporting Requirements	05/26/96	5/19/97, 62 FR 27204	
493–400–070.	Inspection & Testing Requirements	05/26/96	5/19/97, 62 FR 27204	
493–500–010.	Applicability	05/26/96	5/19/97, 62 FR 27204	
493–500–020.	Compliance Extensions	05/26/96	5/19/97, 62 FR 27204	
493–500–030.	Exemption from Disclosure to the Public	05/26/96	5/19/97, 62 FR 27204	
493–500–040.	Future Review	05/26/96	5/19/97, 62 FR 27204	

TABLE 7—YAKIMA REGIONAL CLEAN AIR AGENCY REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
Article I—Policy, Short Title and Definitions				
1.01	Policy	12/15/95	2/2/98, 63 FR 5269	
1.02	Short Title	11/18/93	2/2/98, 63 FR 5269	
1.03	Definitions	12/15/95	2/2/98, 63 FR 5269	
Article II—General Provisions				
2.02	Control Officer—Powers & Duties	11/18/93	2/2/98, 63 FR 5269	
2.03	Miscellaneous Provisions	11/18/93	2/2/98, 63 FR 5269	
2.04	Confidentiality	11/18/93	2/2/98, 63 FR 5269	
2.05	Advisory Council	11/18/93	2/2/98, 63 FR 5269	
Article III—Violations—Orders and Hearings				
3.01	Notice of Violation—Corrective Action Hearings	11/18/93	2/2/98, 63 FR 5269	
3.02	Finality of Order	11/18/93	2/2/98, 63 FR 5269	
3.03	Stay of Order Pending Appeal	11/18/93	2/2/98, 63 FR 5269	
3.04	Voluntary Compliance	11/18/93	2/2/98, 63 FR 5269	
Article IV—Registration and Notice of Construction				
4.01	Registration	12/15/95	2/2/98, 63 FR 5269	
4.02	Notice of Construction	12/15/95	2/2/98, 63 FR 5269	
4.03	Exceptions to Article 4	11/18/93	2/2/98, 63 FR 5269	
Article V—Emissions Standards and Preventative Measures				
5.01	Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	
5.02	Regulations Applicable to all Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	
5.03	Regulations Applicable to all Outdoor Burning within Jurisdiction of the Yakima County Clean Air Authority, Local Cities, Towns, Fire Protection Districts and Conservation Districts.	12/15/95	2/2/98, 63 FR 5269	
5.04	Regulations Applicable to Permits Issued by the Yakima County Clean Air Authority for all Other Outdoor Burning.	12/15/95	2/2/98, 63 FR 5269	
5.05	Additional Restrictions on Outdoor Burning	12/15/95	2/2/98, 63 FR 5269	
5.06	General Standards for Maximum Permissible Emissions	12/15/95	2/2/98, 63 FR 5269	
5.07	Minimum Emission Standards for Combustion and Incineration Sources.	12/15/95	2/2/98, 63 FR 5269	
5.08	Minimum Emissions Standards for General Process Sources.	12/15/95	2/2/98, 63 FR 5269	
5.10	Sensitive Area Designation	6/20/94	2/2/98, 63 FR 5269	
5.11	Monitoring and Special Reporting	12/15/95	2/2/98, 63 FR 5269	
5.12	Preventive Measures	11/18/93	2/2/98, 63 FR 5269	
Article VIII—Penalty and Severability				
8.01	Penalty for Violation	11/18/93	2/2/98, 63 FR 5269	
8.02	Additional/Alternative Penalties	12/15/95	2/2/98, 63 FR 5269	
8.03	Assurance of Discontinuance	11/18/93	2/2/98, 63 FR 5269	
8.04	Restraining Order—Injunctions	11/18/93	2/2/98, 63 FR 5269	
8.05	Severability	12/15/95	2/2/98, 63 FR 5269	
Article IX—Woodstoves and Fireplaces				
9.01	Policy	11/18/93	2/2/98, 63 FR 5269	
9.02	Opacity	11/18/93	2/2/98, 63 FR 5269	
9.03	Prohibitive Fuel Types	11/18/93	2/2/98, 63 FR 5269	
9.04	Limitations of Sales of Solid Fuel Burning Devices	11/18/93	2/2/98, 63 FR 5269	
9.05	Prohibition of Visible Emissions During Air Pollution Episodes.	12/15/95	2/2/98, 63 FR 5269	
Article XII—Adoption of State and Federal Regulations				
12.01	State Regulations	12/15/95	2/2/98, 63 FR 5269	
Article XIII—Fee Schedules and Other Charges				
13.01	Registration and Fee Schedule	1/13/94	2/2/98, 63 FR 5269	
13.02	Notice of Construction Fee Schedule	6/20/94	2/2/98, 63 FR 5269	

TABLE 7—YAKIMA REGIONAL CLEAN AIR AGENCY REGULATIONS—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
13.03	Outdoor Burning Permit Fees	6/20/94	2/2/98, 63 FR 5269	

(d) *EPA-Approved State Source-Specific Requirements.*

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS

Name of source	Order/Permit number	State effective date	EPA Approval date	Explanation
IBP (now known as Tyson Foods, Inc.)	02AQER–5074	12/6/02	5/2/05 70 FR 22597.	except finding number 4 (T–BACT) & 3.3 of approval condition #3 (Emission Limits & Test Methods).
Boise White Paper LLC Permit	000369–7	12/1/04	5/2/05 70 FR 22597.	following condition only: 1.Q.1 of item Q.
Boise Cascade, Wallula Mill	1614–AQ04	9/15/04	5/2/05 70 FR 22597.	following conditions only: No. 1 (Approval Conditions) & Appendix A.
Fugitive Dust Control Plan for Simplot Feeders Limited Partnership.		12/1/03	5/2/05 70 FR 22597.	
Emission Limits for Significant Stack Sources.	various orders	various dates	10/26/95 60 FR 54812.	
Honam, Inc., Ideal Division (now known as LaFarge North America, Inc.).	#5183	2/9/94	8/31/04 69 FR 53007.	
Saint Gobain Containers LLC	#8244	9/9/99	8/31/04 69 FR 53007.	
Kaiser Order—Alternate Opacity Limit	91–01	12/12/91	1/27/97 62 FR 3800.	
Kaiser Order—Limiting Potential-to-Emit	96–03	10/4/00	7/1/05 70 FR 38029.	
Kaiser Order—Limiting Potential-to-Emit	96–04	4/24/96	1/27/97 62 FR 3800.	
Kaiser Order—Limiting Potential-to-Emit	96–05	10/4/00	7/1/05 70 FR 38029.	
Kaiser Order—Limiting Potential-to-Emit	96–06	10/19/00	7/1/05 70 FR 38029.	
Kaiser Order	DE 01 AQIS–3285	10/24/01	5/12/05 70 FR 24991.	
Kaiser Order Amendment #1	DE 01 AQIS–3285	4/9/03	5/12/05 70 FR 24991.	
RACT Limits for Centralia Power Plant	#97–2057R1	2/26/98	6/11/03 68 FR 34821.	
TransAlta Centralia BART	#6426	12/13/11	12/6/12 77 FR 72742.	except the undesignated introductory text, the section titled ''Findings,'' and the undesignated text following condition 13.

(e) *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures.*

STATE OF WASHINGTON NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Attainment and Maintenance Planning—Carbon Monoxide				
Carbon Monoxide Attainment Plan	Yakima	4/27/79	6/5/80 45 FR 37821	
Carbon Monoxide Attainment Plan	Puget Sound	1/22/93	1/20/94 59 FR 2994	
Carbon Monoxide Attainment Plan	Spokane	1/22/93	1/20/94 59 FR 2994	

STATE OF WASHINGTON NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Carbon Monoxide Attainment Plan	Vancouver	1/22/93	1/20/94 59 FR 2994	
Carbon Monoxide Attainment Plan—Contingency Measure.	Vancouver	11/10/93	10/31/94 59 FR 54419	
Carbon Monoxide Attainment Plan—VMT Supplement.	Puget Sound	1/22/93	8/23/95 60 FR 43710	
Carbon Monoxide Maintenance Plan	Puget Sound	2/29/96	10/11/96 61 FR 53323	
Carbon Monoxide Maintenance Plan	Vancouver	3/19/96	10/21/96 61 FR 54560	
Carbon Monoxide Attainment Plan—Revisions	Spokane	9/14/93 and 4/30/96.	9/22/97 62 FR 49442	
Carbon Monoxide Attainment Plan—Correction	Spokane		12/31/97 62 FR 68187	
Carbon Monoxide Maintenance Plan	Yakima	9/26/01	11/01/02 67 FR 66555	
Carbon Monoxide Maintenance Plan 10-Year Update.	Puget Sound	12/17/03	8/5/04 69 FR 47365	
Carbon Monoxide Attainment Plan—Including Kaiser Orders.	Spokane	9/20/01 and 11/22/04.	5/12/05 70 FR 24991	
Carbon Monoxide Maintenance Plan	Spokane	11/29/04	6/29/05 70 FR 37269	
Carbon Monoxide Maintenance Plan 10-Year Update.	Vancouver	4/25/07	6/27/08 73 FR 36439	
Attainment and Maintenance Planning—Lead (Pb)				
Lead Attainment Plan	Seattle	9/27/84	1/29/85 50 FR 3907	
Attainment and Maintenance Planning—Ozone				
Ozone Attainment Plan	Vancouver	7/16/82	12/17/82 47 FR 56497	
Ozone Attainment Plan	Seattle-Tacoma	7/16/82	2/28/83 48 FR 8273	
Ozone Attainment Plan—VOC RACT	Seattle-Tacoma	5/14/91	7/12/93 58 FR 37426	
Ozone Attainment Plan—VOC RACT	Vancouver	5/14/91	7/12/93 58 FR 37426	
Ozone Attainment Plan—Emission Statement Program.	Seattle-Tacoma	1/28/93	9/12/94 59 FR 46764	
Ozone Attainment Plan—Emission Statement Program.	Vancouver	1/28/93	9/12/94 59 FR 46764	
Ozone Maintenance Plan	Seattle-Tacoma	3/4/96	9/26/96 21 FR 50438	
Ozone Maintenance Plan	Vancouver	6/13/96	5/19/97 62 FR 27204	
Ozone Maintenance Plan 10-Year Update	Seattle-Tacoma	12/17/03	8/5/04 69 FR 47365	
Attainment and Maintenance Planning—Particulate Matter				
Particulate Matter (PM_{10}) Attainment Plan	Kent	11/15/91	7/27/93 58 FR 40059	
Particulate Matter (PM_{10}) Attainment Plan	Thurston County	2/17/89 and 11/15/91.	7/27/93 58 FR 40056	
Particulate Matter (PM_{10}) Attainment Plan	Tacoma	5/2/95	10/25/95 60 FR 54559	
Particulate Matter (PM_{10}) Attainment Plan	Seattle	2/21/95	10/26/95 60 FR 54812	
Particulate Matter (PM_{10}) Attainment Plan	Spokane	12/9/94	1/27/97 62 FR 3800	
Particulate Matter (PM_{10}) Attainment Plan	Wallula	11/13/91	1/27/97 62 FR 3800	
Particulate Matter (PM_{10}) Attainment Plan	Yakima	3/24/89	2/2/98 63 FR 5269	
Particulate Matter (PM_{10}) Maintenance Plan	Thurston County	8/16/99	10/4/00 65 FR 59128	

STATE OF WASHINGTON NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Particulate Matter (PM_{10}) Maintenance Plan	Kent	8/23/99	3/13/01 66 FR 14492	
Particulate Matter (PM_{10}) Maintenance Plan	Seattle	8/23/99	3/13/01 66 FR 14492	
Particulate Matter (PM_{10}) Maintenance Plan	Tacoma	8/23/99	3/13/01 66 FR 14492	
Particulate Matter (PM_{10}) Maintenance Plan	Yakima	7/8/04	2/8/05 70 FR 6591	
Particulate Matter (PM_{10}) Attainment Plan—Revision.	Wallula	11/30/04	5/2/05 70 FR 22597	
Particulate Matter (PM_{10}) Maintenance Plan	Spokane	11/30/04	7/1/05 70 FR 38029	
Particulate Matter (PM_{10}) Maintenance Plan	Wallula	3/29/05	8/26/05 70 FR 50212	
Particulate Matter ($PM_{2.5}$) Clean Data Determination.	Tacoma, Pierce County	05/22/12	09/04/12 77 FR 53772	
Visibility and Regional Haze Plans				
Visibility New Source Review (NSR) for non-attainment areas for Washington.	Statewide		6/26/86 51 FR 23228	
Washington State Visibility Protection Program	Statewide	11/5/99	6/11/03 68 FR 34821	
Regional Haze State Implementation Plan—TransAlta BART.	Statewide	12/29/11	12/6/12 77 FR 72742	
110(a)(2) Infrastructure and Interstate Transport				
Interstate Transport for the 1997 8-Hour Ozone and $PM_{2.5}$ NAAQS.	Statewide	1/17/07	1/13/09 74 FR 1591	
110(a)(2) Infrastructure Requirements—1997 ozone standard.	Statewide	1/24/12	5/24/12 77 FR 30902	
Other Federally Mandated Plans				
Oxygenated Gasoline Program		1/22/93	1/20/94 59 FR 2994	
Business Assistance Program		11/16/92	3/8/95 60 FR 12685	
Motor Vehicle Inspection & Maintenance Program.		8/21/95	9/25/96 61 FR 50235	
Supplementary Documents				
Air Quality Monitoring, Data Reporting and Surveillance Provisions.		4/15/81		
Energy Facilities Site Evaluation Council (EFSEC) Memorandum of Agreement.		2/23/82		

■ 3. Amend the newly designated § 52.2477 by revising the section heading and paragraph (a) to read as follows:

§ 52.2477 Original identification of plan section.

(a) This section identified the original ''Air Quality Implementation Plan for the State of Washington'' and all revisions submitted by Washington that were federally approved prior to December 7, 2012.

* * * * *

§ 52.2479 [Removed and reserved]

■ 4. Remove and reserve § 52.2479.

§ 52.2491 [Removed and reserved]

■ 5. Remove and reserve § 52.2491.

§ 52.2499 [Removed and reserved]

■ 6. Remove and reserve § 52.2499.

[FR Doc. 2013–06310 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0051; FRL–9381–1]

Amitraz; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of amitraz in or on honey and honeycomb. Arysta Lifescience America, Inc. requested the tolerance for honey under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 20, 2013. Objections and requests for hearings must be received on or before May 20, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2010–0051 is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Stacey Groce, Registration Divison, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–2505; email address: *groce.stacey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0051 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 20, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0051 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of March 24, 2010 (75 FR 14154) (FRL–8815–6), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F7673) by Veto-Pharma SA, c/o Arysta LifeScience America, 1450 Broadway, 7th Floor, New York, NY 10018. The petition requested that 40 CFR 180.287 be amended by establishing tolerances for residues of the insecticide, amitraz, (N'-[2,4-dimethylphenyl]-N-[[(2,4-dimethylphenyl)imino]methyl]]-N-methylmethanimidamide) in or on honey at 1 part per million (ppm). That document referenced a summary of the petition prepared by Veto-Pharma, SA c/o Arysta, the registrant, which is available to the public in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of data supporting the petition, EPA is establishing a lower tolerance for honey than was requested and is establishing a tolerance for honeycomb. The reasons for these changes are explained in detail in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue* * *.''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for amitraz including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with amitraz follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the

studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Acute toxicity studies in various laboratory animals indicate that amitraz is moderately toxic via the dermal route, and it is slightly toxic via the oral and not acutely toxic via inhalation routes of exposure. Further, it is not a skin or eye irritant, nor is it a skin sensitizer.

Multiple species display evidence of neurotoxicity following exposure to amitraz. Clinical signs of neurotoxicity were seen across species, sexes, and routes of administration. Based on available human and animal studies, human subjects were shown to be more sensitive than any other species tested, followed by the dog. In both the oral subchronic and chronic studies in dogs, signs of central nervous system depression were observed along with a decrease in pulse rate and hypothermia noted in the subchronic study. In both the oral subchronic and chronic studies and in the 21-day inhalation study in the rat, irritability, nervousness and/or excitability were observed. In the rabbit developmental toxicity study, clinical signs that were considered to be related to treatment included languor and polypnea. Sedation was also observed in rabbits in the repeated dose dermal study. In the single dose human metabolism study, neurotoxic effects such as dry mouth, drowsiness, decreased temperature, and bradycardia were seen within 90 to 160 minutes after ingestion and persisted for up to 12 hours at the lowest dose tested (0.25 mg/kg/day).

No developmental toxicity was seen at the highest dose tested in two pre-natal developmental toxicity studies in rats. Two independent developmental toxicity studies were available in rabbits. Although technical deficiencies were encountered in the conduct of these studies, no developmental effects were seen either at the highest dose tested (in one study) or in the presence of maternal toxicity (second study). When taken together, these studies show that (1) amitraz does not cause developmental toxicity in this species and (2) rabbits are not more sensitive than rats since the doses tested in the rabbits were higher than the doses tested in the rat developmental study where no developmental toxicity was seen at any dose level. The database contains a 1-generation and a 3-generation reproduction study in rats. In the 1-generation study, no reproductive toxicity was seen at the highest dose tested and offspring toxicity was seen in the presence of parental/systemic toxicity. In the 3-generation reproduction study, no reproductive toxicity was seen at the highest dose tested, however, offspring toxicity was seen at a lower dose than the dose that caused parental/systemic toxicity.

The CNS effects of amitraz do not appear to be cumulative, i.e., do not accumulate with increased duration. In the 90-day repeat dose dog study, the CNS effects appear early on (within 3 hours of dosing), rapidly end, and recur daily after dosing throughout the study. In the chronic (2-year) dog study, the CNS effects are seen following a single dose on the first 2 days of the study, with transient hypothermia detected in only one female throughout the rest of the study, indicative of some potential adaptation occurring at lower doses over longer periods of testing. The NOAEL and LOAEL for the 90-day and chronic dog studies are the same, also indicating that the CNS effects are not cumulative, but are a response to each daily dose that is likely reversible if exposure were to stop. Additionally, the single dose (acute) studies across several species show an onset of CNS effects within a few hours and recovery within a few hours to several days. The human metabolism study showed neurotoxic effects shortly after dosing, which disappeared within 12 hours. Although the metabolism study was limited to two subjects, both human subjects exposed experienced clear CNS effects that were consistent with the animal data. Because of the reversibility of the CNS effects, exposures of all durations can be regarded as a series of repeating one-day (acute) exposures.

For other effects, such as body weight changes and the tumors in the mouse study, those effects are likely to be cumulative. However, those effects occur at higher dose levels than the CNS depression. The human endpoint (0.125 mg/kg/day) will be protective of other longer term systemic effects as it is a lower dose level than the dose levels where these other systemic effects such as body weight change occur.

Although a mouse carcinogenicity study showed that amitraz was associated with common tumors (liver and lung) in the mouse, EPA has determined that quantification of risk using a non-linear approach (*i.e.,* RfD) for amitraz will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to amitraz and its metabolites. That conclusion is based on the following considerations: (1) No carcinogenic response was seen in an acceptable rat cancer study; (2) the tumors found in the mouse are commonly seen in the mouse and were only found at a dose that appears to have been excessive given the other adverse effects seen in the animals; (3) amitraz is not mutagenic; and (4) although there is limited positive mutagenicity data and equivocal evidence of cancer for a minor amitraz metabolite, that equivocal cancer evidence was present only at high doses and was not consistent with the tumors seen in the amitraz study.

More detailed information on the studies received and the nature of the adverse effects caused by amitraz as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document entitled, ''Amitraz: Aggregate Human Health Risk Assessment for Section 3 New Use in Beehives,'' dated January 8, 2013, by going to *http://www.regulations.gov.* The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2010–0051. Double-click on the document to view the referenced information on pages 15–19 of 48.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://*

www.epa.gov/pesticides/factsheets/riskassess.htm.

A summary of the toxicological endpoints for amitraz used for human risk assessment is shown in the table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR AMITRAZ FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children).	NOAEL = 0.125 mg/kg/day. UF_H = 10x FQPA SF = UF_{DB} = 10x	Acute RfD = 0.0125 mg/kg/day. aPAD = 0.00125 mg/kg/day	A double-blind randomized crossover study in human subjects. LOAEL = 0.25 mg/kg/day based on dry mouth, drowsiness, decreased temperature, decreased blood pressure and decreased heart rate.
Incidental oral short- and intermediate term.	NOAEL= 0.125 mg/kg/day. UF_H = 10x FQPA SF = UF_{DB} = 10x	Residential LOC for MOE = 100.	A double-blind randomized crossover study in human subjects. LOAEL = 0.25 mg/kg/day based on dry mouth, drowsiness, decreased temperature, decreased blood pressure and decreased heart rate.
Dermal (All durations)	Oral NOAEL = 0.125 mg/kg/day. Dermal Absorption Rate = 1.6% UF_H = 10x FQPA SF = UF_{DB} = 10x	Residential LOC for MOE = 100.	A double-blind randomized crossover study in human subjects. LOAEL = 0.25 mg/kg/day based on dry mouth, drowsiness, decreased temperature, decreased blood pressure and decreased heart rate.
Inhalation (All durations)	Oral NOAEL = 0.125 mg/kg/day. UF_H = 10x FQPA SF = UF_{DB} = 10x	Residential LOC for MOE = 100.	A double-blind randomized crossover study in human subjects. LOAEL = 0.25 mg/kg/day based on dry mouth, drowsiness, decreased temperature, decreased blood pressure and decreased heart rate.
Cancer (Oral, dermal, inhalation).	EPA has determined that quantification of risk using a non-linear approach (*i.e.,* RfD) will adequately account for all chronic toxicity, including carcinogenicity. Because of the reversibility of the CNS effects, exposures of all durations can be regarded as a series of repeating one-day (acute) exposures and there is no increase in hazard with increasing dosing duration. Therefore, the acute dietary endpoint is protective of the endpoints from repeat dosing studies, including cancer dietary exposures.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute). RfD = reference dose. UF_{DB} = to account for the absence of data or other data deficiency. UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to amitraz, EPA considered exposure under the petitioned-for tolerances as well as all existing amitraz tolerances in 40 CFR 180.287. EPA assessed dietary exposures from amitraz in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for amitraz. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA conducted a partially refined acute dietary analysis using the Dietary Exposure Evaluation Model DEEM–FCID™, Version 2.03 and assumed exposure through honey, imported cottonseed oil, meat and milk from dermal treatments of livestock. The residue values used for livestock products, except for milk, are based upon tolerance level residues. Milk residues were assessed using the high-end result from the original cattle dosing study. Percents of livestock treated were used. Residues in cottonseed oil were estimated using the tolerance level and percent crop imported. For honey, residue values from field trial data and 100% crop treated were used.

ii. *Chronic exposure.* Based on data summarized in Unit lll.A., there is no increase in hazard from repeated exposures to amitraz; as such the acute dietary exposure assessment is protective of any chronic dietary exposures to amitraz because there is no increase in hazard with increasing dosing duration. Accordingly, a dietary exposure assessment for the purpose of assessing chronic dietary risk was not conducted.

iii. *Cancer.* EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. If quantitative cancer risk assessment is appropriate, cancer risk may be quantified using a linear or nonlinear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or nonlinear approach is used and a cancer RfD is calculated based on an earlier noncancer key event. If carcinogenic mode of action data is not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope factor approach is utilized. Based on the data summarized in Unit III.A., the Agency has determined that quantification of risk using a nonlinear approach (i.e., RfD) would adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to amitraz. Therefore, the acute dietary assessment is protective of

any cancer effects resulting from amitraz residues in food.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the PCT for existing uses as follows: Cotton seed oil, 2%; beef meat, 0.3%; beef meat dried, 0.3%; beef meat byproducts, 0.3%; beef fat, 0.3%; beef kidney, 0.3%; beef liver, 0.3%; pork meat, 1.2%, pork skin, 1.2%; pork meat byproducts, 1.2%; pork fat, 1.2%; pork kidney, 1.2%; pork liver, 1.2%; milk fat, 0.3%; milk non-fat solids, 0.3%; milk water, 0.3%; milk sugar, 0.3%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

For this request, the EPA relied on available data in USDA NASS for cattle and swine to determine the percent of animal heads treated with amitraz. NASS does not report the total number of dairy cattle treated with a particular chemical because the applications vary significantly based on product formulation, method of application, and pest stress at particular locations. Rather, they report chemical usage on a rate per head per application and rate per head per year basis. To determine the number of cattle treated, EPA divided the total pounds of amitraz applied by the total rate per head per year, which NASS defines as the average number of pounds applied counting multiple applications. It was assumed that the average rate captures the variation in number of cows treated.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which amitraz may be applied in a particular area.

2. *Dietary exposure from drinking water.* Drinking water was not included in the dietary assessment as it was determined that amitraz is not expected to enter water-bodies or drinking water through the current and proposed uses.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Amitraz is currently registered for the following uses that could result in residential exposures: Pet uses from dog collars and spot-on treatments. EPA assessed residential exposure using the following assumptions: There is a potential for residential exposure to amitraz from existing pet uses (dog collars and spot-on treatments), either from applying (handling) the products or from post-application contact with the treated dog. A dermal exposure assessment was performed for adults applying the amitraz pet products. For post-application exposure to treated dogs, a dermal assessment was performed for adults and a dermal and oral (hand to mouth) assessment was performed for children 1–2 years of age. Handler and post-application inhalation exposure is expected to be negligible and was not quantitatively assessed. EPA did not assess intermediate-term or chronic residential exposures because amitraz is acutely toxic and does not increase in potency with repeated dosing. Residential exposures of all durations can be regarded as a series of repeating one-day exposures based on the current toxicity database for amitraz, which suggests that the central nervous system effects of amitraz are not cumulative, but are a response to each daily dose.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found amitraz to share a common mechanism of toxicity with any other substances, and amitraz does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that amitraz does not have a

common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The toxicology database is not complete to assess susceptibility following pre-and/or post natal exposure to amitraz. There was no evidence of increased susceptibility in rats since no developmental toxicity was seen at the highest dose tested in two independent pre-natal developmental toxicity studies in rats. Evidence for susceptibility in rabbits could not be ascertained due to technical deficiencies in the conduct of two independent developmental studies. However, the concern for the lack of susceptibility assessment is lessened because (1) in both studies, developmental effects occurred in the presence of maternal toxicity (one study) or at a dose higher than the dose that caused maternal toxicity (second study); (2) the doses tested in the rabbit studies were higher than the doses tested in developmental study in rats showing that rabbits are not more sensitive than rats. Two reproductive toxicity studies (1-generation and a 3-generation) are available; in the 1-generation study, no reproductive toxicity was seen at the highest dose tested and offspring toxicity was seen in the presence of parental/systemic toxicity. In the 3-generation reproduction study, no reproductive toxicity was seen at the highest dose tested, however, offspring toxicity was seen at a lower dose than the dose that caused parental/systemic toxicity. Both studies were deemed to be unacceptable due to technical deficiencies in the conduct of these studies. Neurotoxicity was seen in a variety of animal studies and in human subjects and the database does not contain specific neurotoxicity studies.

3. *Conclusion.* The 10X FQPA Safety Factor (for the protection of infants and children) is retained in the form of a database uncertainty factor (UF_{DB}), due to multiple toxicology data deficiencies for amitraz (i.e. reproduction, immunotoxicity, and DNT studies).

i. The toxicity database for amitraz is incomplete, but adequate for purposes of risk assessment. An Extended One-Generation Reproductive Toxicity (EOGRT) study is required for amitraz to evaluate the reproductive, neurotoxic, and immunotoxic potential of amitraz.

ii. Various mammalian species in multiple studies have demonstrated the signs of neurotoxicity for amitraz (i.e., sedation, hypothermia, drowsiness, etc). The DNT study will be a component of the EOGRT study, thus will specifically monitor the potential neurotoxicity of amitraz in targeted testing.

iii. As mentioned in Unit III.D.2., the toxicology database is not complete to assess susceptibility following pre-and/or post natal exposure to amitraz.

iv. There are no residual uncertainties identified in the amitraz exposure databases with regard to dietary or residential exposure and no outstanding exposure data gaps. The dietary assessments are based on conservative, health protective assumptions regarding exposure from food and are designed not to underestimate exposures. Residential exposures resulting from contact with dogs wearing amitraz pet collars is conservative. The residential risk estimates are based upon protective assumptions of application rate, duration of exposure, and contact with the treated animal. The fraction of application rate transferred, while non-chemical specific, represents the best data available to assess risk from exposures to the amitraz collar and will not underestimate risk. Drinking water was not included in the dietary assessment as it was determined that amitraz is not expected to enter water-bodies or drinking water through the current and proposed uses.

A 10X FQPA safety factor is considered protective for the following reasons: (1) A clear NOAEL was used as the point of departure for risk assessment; (2) the NOAEL was from the most sensitive species; (3) the NOAEL is from an adequate study in humans that examined the most sensitive endpoint (neurotoxicity) seen in the animal data; (4) given the existing animal data, EPA expects that the most sensitive effect found in the EOGRT study will be a neurotoxic one; (5) EPA is applying a 10X intra-species safety factor to account for potential variability in the sensitivity in humans (including potentially greater sensitivity in infants and children than in the adults tested in the human study); and (6) in the 3-generation reproduction study, the only study showing the potential for increased susceptibility in offspring, offspring were less than 4X more sensitive than adult animals; retention of the additional default 10X safety factor for the protection of infants and children means that there will be a 100X factor to account primarily for potential sensitivity in the young even though the available (though incomplete) data show sensitivity in the young of no greater than 4X.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, at the 99.9th percentile of exposure, the acute dietary exposure from food to amitraz will occupy 76% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Based on the data summarized in Unit lll.A., there is no increase in hazard with increasing dosing duration. In general, aggregate assessments combine average (chronic) dietary exposures with conservative residential exposures. However, in the case of amitraz, a chronic dietary assessment was not performed since the acute dietary assessment will result in higher estimated exposure levels and will therefore be protective of any chronic aggregate exposures.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Amitraz is currently registered for uses that could result in short-term residential exposure. In general aggregate assessments combine average (chronic) dietary exposures with conservative residential exposures. However, in the case of amitraz, a

chronic dietary assessment was not performed since the acute dietary assessment will result in higher estimated exposure levels and will therefore be protective of any chronic exposures. As a screening level aggregate assessment, residential post-application exposures from the small to medium dog collar uses (the residential scenario resulting in the highest estimated exposures) were combined with acute dietary exposures at the 95th percentile of exposure. While aggregation using an average background exposure would more appropriately reflect expected exposures, in the absence of a chronic dietary assessment, use of acute exposures at the 95th percentile of exposure provides a high-end aggregate risk screen.

For children 1–2 years old, the most highly exposed children's subgroup, and for adults, using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the combined short-term food and residential exposures result in aggregate MOEs of 120 and 450, respectively. For amitraz, MOEs of 100 or greater are not of concern.

4. *Intermediate-term risk. Interme*diate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term aggregate risk assessment was not conducted because amitraz is acutely toxic and its potency does not increase with repeated dosing. Therefore, the acute and short-term aggregate assessments are protective of intermediate-term aggregate risks anticipated from amitraz exposure.

5. *Aggregate cancer risk for U.S. population.* For the reasons discussed in Unit lll.A., (cancer effects are non-linear and appear at higher doses than acute effects), and Unit lll.E.2., (chronic exposures are lower than acute exposures), the acute aggregate assessment is protective of potential cancer risk.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to amitraz residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

There are two adequate methods, Methods I (designed for animal tissues and milk) and II (designed for plant commodities) available to enforce the proposed tolerances for honey and honeycomb. Both are GLC methods with electron capture detection (ECD), and involve conversion of residues of amitraz and its metabolites containing the 2,4-dimethylaniline moiety to 2,4-DMA using acid and base hydrolysis, respectively. The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL. There are currently no established Codex MRLs for residues of amitraz in/or on honey or honeycomb.

C. Revisions to Petitioned-For Tolerances

The petitioner requested a tolerance of 1.0 ppm for amitraz in honey. Based on field trial data (for honey and honeycomb) and using the Organization for the Economical Cooperation and Development (OECD) calculation procedure, the Agency determined that a tolerance of 0.2 ppm for amitraz in honey would be adequate to cover residues from amitraz use in beehives and would harmonize with the European Union (EU) maximum residue level (MRL) for total amitraz in honey.

The registrant did not request a tolerance for honeycomb in its petition to the Agency. However, based on the honeycomb field trial samples and use of the OECD calculation procedure, EPA has determined that a tolerance of 9 ppm is appropriate for honeycomb.

Finally, the Agency has revised the tolerance expression to clarify (1) that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of amitraz not specifically mentioned; and (2) that compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of the insecticide amitraz, (N'-[2,4-dimethylphenyl]-N-[[(2,4-dimethylphenyl)imino]methyl]]-N-methylmethanimidamide), including its metabolites and degredates in or on honey at 0.2 ppm and honeycomb at 9 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of

power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 7, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.287 is amended by revising paragraph (a) introductory text and by adding, alphabetically, the following commodities to the table in paragraph (a) to read as follows:

§ 180.287 Amitraz; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide amitraz (N'-[2,4-dimethylphenyl]-N-[[(2,4-dimethylphenyl)imino]methyl]]-N-methylmethanimidamide), including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified is to be determined by measuring amitraz residues convertible to 2,4-dimethylaniline, expressed as the stoichiometric equivalent of amitraz, in or on the following raw agricultural commodities:

Commodity	Parts per million
* * * * *	
Honey	0.2 ppm.
Honeycomb	9 ppm.
* * * * *	

* * * * *

[FR Doc. 2013–06191 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–8275]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date

shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV				
Florida:				
Live Oak, City of, Suwannee County	120334	November 14, 1974, Emerg; July 1, 1987, Reg; April 16, 2013, Susp.	April 16, 2013	April 16, 2013.
Suwannee County, Unincorporated Areas.	120300	February 14, 1975, Emerg; January 6, 1988, Reg; April 16, 2013, Susp.	do*	Do.
Kentucky:				
Coal Run Village, City of, Pike County	210263	April 14, 1977, Emerg; December 4, 1979, Reg; April 16, 2013, Susp.	do	Do.
Dover, City of, Mason County	210167	February 11, 1976, Emerg; May 15, 1986, Reg; April 16, 2013, Susp.	do	Do.
Lewis County, Unincorporated Areas	210141	March 2, 1977, Emerg; February 19, 1987, Reg; April 16, 2013, Susp.	do	Do.
Mason County, Unincorporated Areas	210259	June 30, 1997, Emerg; November 1, 1997, Reg; April 16, 2013, Susp.	do	Do.
Maysville, City of, Mason County	210168	May 14, 1975, Emerg; June 30, 1976, Reg; April 16, 2013, Susp.	do	Do.
Pike County, Unincorporated Areas	210298	July 20, 1977, Emerg; December 4, 1979, Reg; April 16, 2013, Susp.	do	Do.
Pikeville, City of, Pike County	210193	May 13, 1975, Emerg; March 2, 1981, Reg; April 16, 2013, Susp.	do	Do.
Vanceburg, Town of, Lewis County	210142	August 7, 1975, Emerg; February 19, 1987, Reg; April 16, 2013, Susp.	do	Do.
North Carolina:				
Ayden, Town of, Pitt County	370189	March 4, 1975, Emerg; August 4, 1987, Reg; April 16, 2013, Susp.	do	Do.
Black Creek, Town of, Wilson County	370549	April 25, 2002, Emerg; November 4, 2004, Reg; April 16, 2013, Susp.	do	Do.
Craven County, Unincorporated Areas	370072	October 19, 1973, Emerg; May 4, 1987, Reg; April 16, 2013, Susp.	do	Do.
Farmville, Town of, Pitt County	370190	October 15, 1974, Emerg; April 1, 1982, Reg; April 16, 2013, Susp.	do	Do.
Fountain, Town of, Pitt County	370631	N/A, Emerg; May 18, 2005, Reg; April 16, 2013, Susp.	do	Do.
Franklin County, Unincorporated Areas	370377	February 21, 1997, Emerg; May 1, 2000, Reg; April 16, 2013, Susp.	do	Do.
Franklinton, Town of, Franklin County	370497	July 30, 1997, Emerg; January 19, 2001, Reg; April 16, 2013, Susp.	do	Do.
Granville County, Unincorporated Areas	370325	N/A, Emerg; February 20, 1997, Reg; April 16, 2013, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Greene County, Unincorporated Areas	370378	N/A, Emerg; June 12, 1995, Reg; April 16, 2013, Susp.	do	Do.
Greenville, City of, Pitt County	370191	January 15, 1974, Emerg; July 3, 1978, Reg; April 16, 2013, Susp.	do	Do.
Grifton, Town of, Pitt County	370192	April 10, 1975, Emerg; February 17, 1982, Reg; April 16, 2013, Susp.	do	Do.
Hookerton, Town of, Greene County	370326	N/A, Emerg; November 24, 1999, Reg; April 16, 2013, Susp.	do	Do.
Jones County, Unincorporated Areas	370379	April 28, 1975, Emerg; August 16, 1988, Reg; April 16, 2013, Susp.	do	Do.
Kinston, City of, Lenoir County	370145	November 7, 1974, Emerg; June 15, 1982, Reg; April 16, 2013, Susp.	do	Do.
La Grange, Town of, Lenoir County	370579	August 12, 2002, Emerg; July 2, 2004, Reg; April 16, 2013, Susp.	do	Do.
Lenoir County, Unincorporated Areas	370144	July 7, 1980, Emerg; January 6, 1983, Reg; April 16, 2013, Susp.	do	Do.
Louisburg, Town of, Franklin County	370098	June 17, 1975, Emerg; March 4, 1988, Reg; April 16, 2013, Susp.	do	Do.
Lucama, Town of, Wilson County	370537	March 6, 2001, Emerg; November 3, 2004, Reg; April 16, 2013, Susp.	do	Do.
Middlesex, Town of, Nash County	370445	N/A, Emerg; March 19, 1999, Reg; April 16, 2013, Susp.	do	Do.
Nash County, Unincorporated Areas	370278	January 10, 1974, Emerg; June 1, 1978, Reg; April 16, 2013, Susp.	do	Do.
Pitt County, Unincorporated Areas	370372	September 22, 1980, Emerg; January 6, 1983, Reg; April 16, 2013, Susp.	do	Do.
Snow Hill, Town of, Greene County	370110	December 24, 1974, Emerg; January 20, 1982, Reg; April 16, 2013, Susp.	do	Do.
Stantonsburg, Town of, Wilson County	370371	August 19, 1988, Emerg; September 1, 1989, Reg; April 16, 2013, Susp.	do	Do.
Vance County, Unincorporated Areas	370366	N/A, Emerg; October 22, 1997, Reg; April 16, 2013, Susp.	do	Do.
Wake County, Unincorporated Areas	370368	February 26, 1975, Emerg; November 15, 1978, Reg; April 16, 2013, Susp.	do	Do.
Wake Forest, Town of, Wake County	370244	March 14, 1974, Emerg; July 2, 1978, Reg; April 16, 2013, Susp.	do	Do.
Wayne County, Unincorporated Areas	370254	N/A, Emerg; September 16, 1991, Reg; April 16, 2013, Susp.	do	Do.
Wilson, City of, Wilson County	370270	March 21, 1975, Emerg; July 19, 1982, Reg; April 16, 2013, Susp.	do	Do.
Wilson County, Unincorporated Areas	370370	January 12, 1983, Emerg; January 12, 1983, Reg; April 16, 2013, Susp.	do	Do.
Youngsville, Town of, Franklin County	370494	June 30, 1997, Emerg; January 19, 2001, Reg; April 16, 2013, Susp.	do	Do.
Region VII				
Iowa:				
Avoca, City of, Pottawattamie County	190233	May 20, 1974, Emerg; December 16, 1980, Reg; April 16, 2013, Susp.	do	Do.
Council Bluffs, City of, Pottawattamie County.	190235	April 11, 1973, Emerg; June 15, 1978, Reg; April 16, 2013, Susp.	do	Do.
Minden, City of, Pottawattamie County	190781	N/A, Emerg; December 7, 1988, Reg; April 16, 2013, Susp.	do	Do.
Neola, City of, Pottawattamie County	190493	N/A, Emerg; December 17, 1990, Reg; April 16, 2013, Susp.	do	Do.
Oakland, City of, Pottawattamie County	190237	May 30, 1975, Emerg; August 3, 1981, Reg; April 16, 2013, Susp.	do	Do.
Pottawattamie County, Unincorporated Areas.	190232	N/A, Emerg; August 3, 1993, Reg; April 16, 2013, Susp.	do	Do.
Underwood, City of, Pottawattamie County.	190494	October 28, 1977, Emerg; June 1, 1982, Reg; April 16, 2013, Susp.	do	Do.
Walnut, City of, Pottawattamie County	190676	N/A, Emerg; December 31, 2009, Reg; April 16, 2013, Susp.	do	Do.
Nebraska:				
Bennet, Village of, Lancaster County	310251	August 3, 1976, Emerg; March 2, 1981, Reg; April 16, 2013, Susp.	do	Do.
Ceresco, Village of, Lancaster County	310197	July 18, 1975, Emerg; July 3, 1986, Reg; April 16, 2013, Susp.	do	Do.
Firth, Village of, Lancaster County	310135	July 22, 1975, Emerg; April 15, 1981, Reg; April 16, 2013, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Hickman, City of, Lancaster County	310136	May 27, 1975, Emerg; February 3, 1982, Reg; April 16, 2013, Susp.	.....do	Do.
Lancaster County, Unincorporated Areas.	310134	February 16, 1979, Emerg; February 3, 1982, Reg; April 16, 2013, Susp.	.....do	Do.
Lincoln, City of, Lancaster County	315273	April 17, 1970, Emerg; April 23, 1971, Reg; April 16, 2013, Susp.	.....do	Do.
Malcolm, Village of, Lancaster County ...	310500	N/A, Emerg; March 30, 2009, Reg; April 16, 2013, Susp.	.....do	Do.
Raymond, Village of, Lancaster County	310138	April 18, 1985, Emerg; April 18, 1985, Reg; April 16, 2013, Susp.	.....do	Do.
Sprague, Village of, Lancaster County ..	310495	October 18, 1996, Emerg; September 21, 2001, Reg; April 16, 2013, Susp.	.....do	Do.
Waverly, City of, Lancaster County	310140	June 13, 1975, Emerg; April 15, 1982, Reg; April 16, 2013, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: March 8, 2013.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–06320 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–8277]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were

made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR p0061rt 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Barrett, Township of, Monroe County	421884	December 26, 1975, Emerg; September 2, 1988, Reg; May 2, 2013, Susp.	May 2, 2013	May 2, 2013
Chesnuthill, Township of, Monroe County.	421885	December 23, 1977, Emerg; February 17, 1988, Reg; May 2, 2013, Susp.	do*	Do.
Coolbaugh, Township of, Monroe County	421886	March 8, 1977, Emerg; November 4, 1988, Reg; May 2, 2013, Susp.	do	Do.
Delaware Water Gap, Borough of, Monroe County.	420690	March 3, 1980, Emerg; August 16, 1988, Reg; May 2, 2013, Susp.	do	Do.
East Stroudsburg, Borough of, Monroe County.	420691	March 26, 1974, Emerg; September 29, 1978, Reg; May 2, 2013, Susp.	do	Do.
Eldred, Township of, Monroe County	421887	July 20, 1977, Emerg; February 17, 1988, Reg; May 2, 2013, Susp.	do	Do.
Hamilton, Township of, Monroe County	421888	March 31, 1978, Emerg; February 4, 1988, Reg; May 2, 2013, Susp.	do	Do.
Jackson, Township of, Monroe County	421889	January 22, 1981, Emerg; July 2, 1982, Reg; May 2, 2013, Susp.	do	Do.
Middle Smithfield, Township of, Monroe County.	421890	October 3, 1975, Emerg; December 16, 1988, Reg; May 2, 2013, Susp.	do	Do.
Paradise, Township of, Monroe County	421891	January 30, 1980, Emerg; September 2, 1988, Reg; May 2, 2013, Susp.	do	Do.
Pocono, Township of, Monroe County	421892	July 29, 1975, Emerg; August 5, 1986, Reg; May 2, 2013, Susp.	do	Do.
Polk, Township of, Monroe County	421893	December 18, 1975, Emerg; September 30, 1987, Reg; May 2, 2013, Susp.	do	Do.
Price, Township of, Monroe County	421894	September 29, 1975, Emerg; September 2, 1988, Reg; May 2, 2013, Susp.	do	Do.
Ross, Township of, Monroe County	421895	June 1, 1976 Emerg; February 17, 1988, Reg; May 2, 2013, Susp.	do	Do.
Smithfield, Township of, Monroe County	421896	November 8, 1974, Emerg; March 4, 1988, Reg; May 2, 2013, Susp.	do	Do.
Stroud, Township of, Monroe County	420693	May 9, 1973, Emerg; April 15, 1977, Reg; May 2, 2013, Susp.	do	Do.
Stroudsburg, Borough of, Monroe County.	420694	August 25, 1972, Emerg; December 31, 1976, Reg; May 2, 2013, Susp.	do	Do.
Tobyhanna, Township of, Monroe County.	421897	March 18, 1976, Emerg; December 16, 1988, Reg; May 2, 2013, Susp.	do	Do.
Tunkhannock, Township of, Monroe County.	421898	April 23, 1980, Emerg; September 4, 1985, Reg; May 2, 2013, Susp.	do	Do.
Region V				
Ohio:.				
Allen County, Unincorporated Areas	390758	July 20, 1977, Emerg; November 15, 1989, Reg; May 2, 2013, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Bluffton, Village of, Allen and Hancock Counties.	390004	June 19, 1975, Emerg; September 20, 1995, Reg; May 2, 2013, Susp.	.....do	Do.
Delphos, City of, Allen and Van Wert Counties.	390005	July 25, 1975, Emerg; August 5, 1991, Reg; May 2, 2013, Susp.	.....do	Do.
Elida, Village of, Allen County	390656	October 7, 1992, Emerg; N/A, Reg; May 2, 2013, Susp.	.....do	Do.
Fort Shawnee, Village of, Allen County ..	390611	August 12, 1975, Emerg; August 15, 1984, Reg; May 2, 2013, Susp.	.....do	Do.
Lima, City of, Allen County	390006	January 28, 1974, Emerg; February 15, 1979, Reg; May 2, 2013, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: March 8, 2013.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration. Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–06323 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XC575

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2013 total allowable catch of pollock for Statistical Area 620 in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 17, 2013, through 1200 hours, A.l.t., August 25, 2013.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2013 total allowable catch (TAC) of pollock in Statistical Area 620 of the GOA is 19,811 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish of the GOA (78 FR 13162, February 26, 2013). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby increases the B season pollock allowance by 51 mt to reflect the total underharvest of the A seasonal apportionment in Statistical Area 620. Therefore, the revised B season allowance of the pollock TAC in Statistical Area 620 is 19,862 mt (19,811 mt plus 51 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2013 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 19,712 mt and is setting aside the remaining 150 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 14, 2013.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 15, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–06408 Filed 3–15–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 54
Wednesday, March 20, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE05

Federal Credit Union Ownership of Fixed Assets

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The NCUA Board (Board) proposes to amend its regulation governing federal credit union (FCU) ownership of fixed assets to help FCUs understand and comply with its requirements. The proposed amendments do not make any substantive changes to those regulatory requirements. Rather, the amendments only clarify the regulation by improving its organization, structure, and ease of use.

DATES: Comments must be received on or before May 20, 2013.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Notice of Proposed Rulemaking for Part 701, FCU Ownership of Fixed Assets'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- Mail: Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand DeliveryCourier:* Same as mail address.
- *Public Inspection:* You may view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Associate General Counsel, or Pamela Yu, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6593.

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of the Proposed Rule
III. Public Comment
IV. Regulatory Procedures

I. Background

The Federal Credit Union Act (FCU Act) authorizes an FCU to purchase, hold, and dispose of property necessary or incidental to its operations.[1] NCUA's fixed assets rule interprets and implements this provision of the FCU Act.[2] In general, an FCU may only invest in property it intends to use to transact credit union business or in property that supports its internal operations or serves its members.[3] NCUA's fixed assets rule: (1) Limits FCU investments in fixed assets; (2) establishes occupancy, planning, and disposal requirements for acquired and abandoned premises; and (3) prohibits certain transactions.[4] For purposes of the rule, fixed assets are premises, furniture, fixtures, and equipment, including any office, branch office, suboffice, service center, parking lot, facility, real estate where a credit union transacts or will transact business, office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.[5]

A. Why is NCUA proposing this rule?

The Board has a policy of continually reviewing NCUA's regulations to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.''[6] To carry out this policy, NCUA identifies one-third of its existing regulations for review each year and provides notice of this review so the public may comment. In 2012, NCUA reviewed its fixed assets rule as part of this process. As a result of this review, the Board believes amending the fixed assets rule would make it easier for FCUs to understand. The Board also believes this proposal is consistent with the spirit of Executive Order 13579, which directed independent agencies, including NCUA, to consider whether they can modify, streamline, expand, or repeal existing rules to make their programs more effective and less burdensome.[7] Further, NCUA continually receives questions about the fixed assets rule, indicating there is some confusion about its application. For example, FCUs have asked for clarification regarding the waiver process, as well as the provision that requires an FCU to partially occupy unimproved property acquired for future expansion.[8] Therefore, the Board believes it is appropriate to make the proposed amendments to clarify the waiver and partial occupation requirements and to improve the fixed assets rule overall.

B. How would the proposed rule change the current rule?

The Board proposes to: (1) Amend the regulatory text using plain language; (2) add an introductory section to define the scope of the regulation; (3) reorganize the existing definitions; (4) add several new definitions; and (5) clarify the processes for obtaining waivers from NCUA. The proposed amendments do not make any substantive changes to the regulatory requirements. Rather, they clarify the rule and improve its overall organization, structure, and readability.

C. Does the proposed rule create new requirements for FCUs?

No, the proposed amendments do not create any new requirements for FCUs.

[1] 12 U.S.C. 1757(4).
[2] 12 CFR 701.36.
[3] 12 CFR 721.3(d).
[4] 12 CFR 701.36.
[5] 12 CFR 701.36(c).
[6] NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2, Developing and Reviewing Government Regulations.
[7] E.O. 13579 (July 11, 2011).
[8] 12 CFR 701.36(b)(2).

II. Summary of the Proposed Rule

A. How is the proposed rule easier to read and use?

President Obama signed the Plain Writing Act of 2010 (Pub. L. 111–274) into law on October 13, 2010 ''to improve the effectiveness and accountability of federal agencies to the public by promoting clear Government communication that the public can understand and use.'' The proposal revises the regulatory text to meet plain writing objectives. For example, the proposal uses logical organization, shorter sentences, active voice, and common, everyday words. It also uses lists, where appropriate.

B. How does the proposal improve the organization of the current rule?

The proposal adds a new introductory section to clearly define the scope and application of the rule. It also reorganizes the definition section and moves it to the beginning of the rule. In the current rule, the definitions are found at the end, which has proven confusing for some FCUs. The Board believes it is more intuitive for readers to look to the beginning of a rule for the definitions that are applicable throughout the rule.

The proposal breaks down several regulatory sections into smaller sub-sections to improve organization and ease of reading. The proposal also introduces definitions for the terms ''partially occupy'' and ''unimproved land or unimproved real property,'' as discussed in more detail below. The Board believes these new definitions will help clarify a confusing aspect of the current rule.

C. What are the newly defined terms in the proposal?

The Board proposes to clarify the provision in the fixed assets rule that requires an FCU to partially occupy unimproved property acquired for future expansion within a time period set by the rule.[9] Recently, the Board amended the rule to permit an FCU up to six years from the date it obtains unimproved real property to meet the partial occupancy requirement, unless NCUA grants a waiver.[10] As noted above, some FCUs are confused about how to apply this standard.

Specifically, the current rule states that ''[p]remises are partially occupied when the credit union is using some part of the space on a full-time basis.'' [11] In 2004, the Board described the phrase ''partially occupy'' to mean that an FCU is required to ''occupy any of the space'' within the regulatory time frame.[12] Many FCUs find this standard vague, however, and would benefit from a more precise understanding of it. Accordingly, the Board proposes to clarify the meaning of ''unimproved land or unimproved real property'' and ''partially occupy'' by adding definitions of these terms to the regulation. While these terms are not expressly defined in the current rule, the proposed definitions reflect NCUA's current interpretation of them. The addition of the proposed definitions does not impose any new regulatory requirements on FCUs.

1. Unimproved Land or Unimproved Real Property

When NCUA initially granted RegFlex FCUs up to six years to partially occupy unimproved land, the Board noted the following in the 2009 rulemaking:

> Where an FCU is acquiring unimproved land, the partial occupancy requirement often is more difficult to satisfy than if the FCU were purchasing premises with an existing branch building. * * * [M]any real estate transactions are complex, time consuming, and can involve a host of wide-ranging issues that must be addressed before an FCU is ready to occupy the premises. This is especially true in the unimproved land context considering the addition of construction-related issues.[13]

In establishing the six-year time frame, the Board used the term ''unimproved land'' as it is commonly defined. For purposes of the fixed assets rule, the common definition of ''unimproved land'' or ''unimproved real property'' is raw land or, more specifically, land without development, significant buildings, structures, or site preparation. Unimproved land or real property also includes land that has never had improvements, as well as property that was improved at one time but has since functionally reverted to its unimproved state. An NCUA legal opinion issued in 2009 stated:

> [A] piece of land may have improvements so useless or valueless to the FCU so as to be the functional equivalent of unimproved land. For example, an FCU purchases a piece of land for a future branch building that happens to have a decrepit barn on it. In those instances, we believe it is appropriate to treat that kind of property as unimproved for purposes of the six-year occupancy requirement. To receive this treatment, however, an FCU must demonstrate through records generated or in existence at the time of purchase that the FCU intends to demolish the improvements or otherwise treat the improvements as useless or valueless.[14]

There is another instance when NCUA will consider improved land as unimproved for purposes of the fixed assets rule. Specifically, if the improvements, even if functional and intrinsically valuable, serve no purpose for the FCU's planned use of the property, then NCUA will consider the land unimproved. For example, if an FCU purchases a parcel of land that is improved with water and sewer lines for a residential townhouse development, but the FCU plans to build a parking garage on the parcel, then the improvements have no real value to the FCU. In that instance, the parcel will be considered unimproved. The Board believes the addition of a definition for the term ''unimproved land or unimproved real estate'' will aid FCUs in their understanding of the requirements under the fixed assets rule.

2. Partially Occupy

An FCU's plan to develop unimproved property should indicate how the FCU will use the premises as part of its business model. It also should provide a detailed description of how the FCU will accomplish that, and it should articulate specific time frames for construction milestones and completion. Whether an FCU has complied with the six-year time frame to ''partially occupy'' unimproved real property is relative to the FCU's plan for use of the premises. In making that determination, NCUA will consider an FCU in compliance only if the FCU has completed the improvements to a sufficient extent that the FCU is occupying a meaningful portion of the premises consistent with its usage plan. In the Board's view, ''meaningful'' means a portion large enough that an FCU is occupying the premises in a useful and practical way given the scope of the project. This requires an FCU to derive practical utility from the occupied portion considering the date of acquisition and estimated date of completion. For example, an FCU that takes six years to construct a branch location must, at a minimum, occupy that branch as a functional office to transact business and handle member needs. In this example, a ''functional

[9] 12 CFR 701.36(b)(2).

[10] 77 FR 31981 (May 31, 2012). Before this amendment, only an FCU designated under the Regulatory Flexibility (RegFlex) program had the authority to partially occupy unimproved land within six years of acquisition. Non-RegFlex FCUs were required to partially occupy acquired unimproved land within three years of acquisition. In the final rulemaking, NCUA eliminated the RegFlex program and extended the six-year time period to all FCUs.

[11] 12 CFR 701.36(b)(2).

[12] 69 FR 58039, 58041 (Sept. 29, 2004).

[13] 74 FR 13082, 13083 (Mar. 26, 2009).

[14] OGC Legal Op. 09–0719 (Sept. 15, 2009).

office'' means one that is, at the time of partial occupation, providing many or most of the services it will provide when completed. As another example, a newly constructed mortgage servicing center must be occupied to the extent that the FCU can utilize it for the general purposes for which it was built. In both examples, the FCU does not need to have totally completed making improvements to the premises, nor does it need to occupy the premises to the extent it would be when operating at 100% capacity. The partial occupation, however, must be sufficient to evidence the FCU has substantially realized its plan objectives and is occupying the premises in a manner demonstrating that full occupation will be achieved within a reasonable time period.

The fixed assets rule also imposes a partial occupancy requirement on an FCU that acquires improved premises for future expansion.[15] The time frame for partially occupying improved premises an FCU has acquired for future expansion may not exceed three years. However, the same criteria articulated above for partially occupying unimproved property apply to improved premises. Accordingly, an FCU that acquires improved premises for future expansion must, within three years, occupy a meaningful portion of the premises consistent with its usage plan and derive practical utility from the occupied portion. The partial occupancy also must be sufficient to evidence that full occupation will be achieved within a reasonable time period.

The Board understands that the spectrum of construction projects in which FCUs may engage is broad, and that the nature and scope of those projects greatly depend on the particular circumstances and needs of the individual FCU. The same is true with respect to improved premises an FCU may acquire. Accordingly, the Board recognizes it is impractical to attempt to design a one-size-fits-all test for every set of circumstances surrounding a project or purchase. However, the Board believes the standards articulated in the proposed definition, along with the examples of common projects described above, clarifies how NCUA interprets the term ''partially occupy.'' The Board also notes that an FCU can enhance its likelihood for complying with the fixed assets rule by coordinating with its examiner and regional office during the expansion or improvement process.

[15] 12 CFR 701.36(b)(2).

D. How does the proposed rule clarify the waiver process?

Under the current rule, several provisions are subject to waiver including: (1) The aggregate investment limit (current § 701.36(a)); (2) the partial occupation requirements (current § 701.36(b)(2)); (3) the requirement to dispose of abandoned premises (current § 701.36(b)(3)); and (4) the prohibition on certain transactions (current § 701.36(c)(1)). The Board proposes to amend the rule to clarify the waiver provisions. The proposed changes are intended to better articulate NCUA's expectations for FCUs requesting waivers and NCUA's obligations in reviewing such requests.

The current rule addresses the waiver requirements somewhat inconsistently. For example, in some instances the express terms ''waive'' or ''waiver'' are used. In other instances, the rule uses more ambiguous language such as ''[u]nless otherwise approved in writing by NCUA'' or ''[w]ithout the prior written approval of the NCUA.'' While articulated differently, in those instances, those provisions are subject to waiver by NCUA. The Board believes the rule would be easier to understand if all waiver provisions are referenced with the same unambiguous terminology. The proposal revises the regulatory text accordingly. Specifically, the word ''waiver'' is included in the regulatory text in each instance that a particular requirement or limitation is subject to waiver by NCUA.

The current rule also describes the waiver processes somewhat inconsistently. The Board notes that each process varies depending on the particular requirement or limit being waived. Nevertheless, the Board believes greater uniformity in the description of each waiver process would be helpful to FCUs. As such, under the proposal, each provision in the rule that is subject to waiver describes: (1) The FCU's obligations when submitting a waiver request; (2) NCUA's obligations in reviewing a waiver request; and (3) any other applicable conditions for a waiver.

The Board is aware of concerns that NCUA's current waiver process, in general, is uneven and, in some circumstances, overly burdensome to the practical needs of some FCUs. The Board emphasizes that NCUA is committed to making the agency's waiver process more consistent and user friendly and welcomes public comment on ways of doing so.

III. Request for Comment

The Board encourages public comment on all aspects of this proposed rule. In particular, the Board requests feedback regarding any additional ways to enhance the readability and usefulness of the fixed assets rule.

IV. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (primarily those under fifty million dollars in assets). This proposed rule would improve the regulation to help FCUs understand its requirements. The proposed amendments do not make any substantive changes to the regulatory requirements. They are intended to improve the rule's organization, structure, and ease of use. NCUA has determined this proposed rule will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[16] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. As noted above, the proposed amendments would make the rule easier to understand, but would not impose new paperwork burdens.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency, as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. Because the fixed assets regulation applies only to federal credit unions, this proposed rule would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. As such, NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

[16] 44 U.S.C. 3507(d); 5 CFR part 1320.

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act of 1999.[17]

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board, on March 14, 2013.

Mary F. Rupp,

Secretary of the Board.

For the reasons stated above, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; Title V, Pub. L. 109–351, 120 Stat. 1966.

■ 2. Revise § 701.36 to read as follows:

§ 701.36 Federal credit union ownership of fixed assets.

(a) *Scope.*

Section 107(4) of the Federal Credit Union Act (12 U.S.C. 1757(4)) authorizes a federal credit union to purchase, hold, and dispose of property necessary or incidental to its operations. This section interprets and implements that provision and it:

(1) limits investments in fixed assets;

(2) establishes occupancy, planning, and disposal requirements for acquired and abandoned premises; and

(3) prohibits certain transactions. This section applies only to federal credit unions.

(b) *Definitions.*

For purposes of this section:

Abandoned premises means real property previously used to transact credit union business, but no longer used for that purpose. It also means real property originally acquired for future credit union expansion, but no longer intended for that purpose.

Fixed assets means premises and furniture, fixtures, and equipment.

Furniture, fixtures, and equipment means all office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.

Investments in fixed assets means:

(1) any investment in improved or unimproved real property which a federal credit union is using, or intends to use, as premises;

(2) any leasehold improvement on premises;

(3) the aggregate of all capital and operating lease payments on fixed assets, without discounting commitments for future payments to present value; or

(4) any investment in furniture, fixtures, and equipment.

Immediate family member means a spouse or other family member living in the same household.

Partially occupy means occupation, on a full-time basis, of a portion of the premises that is:

(1) consistent with the federal credit union's usage plan for the premises;

(2) significant enough that the federal credit union is deriving practical utility from the occupied portion, relative to the scope of the usage plan; and

(3) sufficient to show that the federal credit union will fully occupy the premises within a reasonable time.

Premises means any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the federal credit union transacts or will transact business.

Senior management employee means the federal credit union's chief executive officer, any assistant chief executive officers, and the chief financial officer. For example, these individuals typically hold the title of President or Treasurer/Manager, Assistant President, Vice President or Assistant Treasurer/Manager, and Comptroller.

Shares means regular shares, share drafts, share certificates, or other savings.

Retained earnings means undivided earnings, regular reserve, reserve for contingencies, supplemental reserves, reserve for losses, and other appropriations from undivided earnings as designated by the federal credit union's management or NCUA.

Unimproved land or unimproved real property means:

(1) raw land or land without development, significant buildings, structures, or site preparation;

(2) land that has never had improvements;

(3) land that was improved at one time but has functionally reverted to its unimproved state; or

(4) land that has been improved, but the improvements serve no purpose for the federal credit union's planned use of the property and are of little value relative to the project.

(c) *Limits on Investment in Fixed Assets.*

(1) If a federal credit union has $1,000,000 or more in assets, the aggregate of all its investments in fixed assets must not exceed five percent of its shares and retained earnings. NCUA may waive this aggregate limit.

(i) To seek a waiver, a federal credit union must submit a written request to its regional office. The request must:

(1) describe the proposed investment;

(2) indicate the approximate aggregate amount of fixed assets the federal credit union would hold after the investment (as a percentage of shares and retained earnings); and

(3) fully explain why the federal credit union needs the waiver.

(ii) The regional director will inform the federal credit union, in writing, of the date its request was received and of any additional documentation needed.

(iii) Within 45 days of the receipt of the federal credit union's waiver request or all necessary documentation, whichever is later, the regional director will provide the federal credit union a written response, either approving or disapproving the request. The regional director's decision will be based on safety and soundness considerations.

(iv) If a waiver is approved, the regional director will set an alternative limit on the federal credit union's aggregate investments in fixed assets, either as a dollar limit or as a percentage of its shares and retained earnings. Unless the regional director specifies otherwise, the federal credit union's future investments in fixed assets must not exceed an additional one percent of its shares and retained earnings over the amount approved.

(v) If the regional director does not respond in writing within the timeframe specified in clause (iii) above, the federal credit union may proceed with its proposed investment. However, the federal credit union's investment in fixed assets, and any such future investments, must not exceed the aggregate limit it requested.

(d) *Premises Not Currently Used To Transact Credit Union Business.*

(1) If a federal credit union acquires premises for future expansion and does not fully occupy them within one year, it must have a board resolution in place by the end of that year with definitive plans for full occupation. Premises are fully occupied when the federal credit union (or the federal credit union and a credit union service organization or a vendor) uses the entire space on a full-time basis. Credit union service organizations and vendors must use the space primarily to support the federal credit union or to serve the federal credit union's members. The federal credit union must make its plans for full occupation available to NCUA upon request.

[17] Public Law 105–277, 112 Stat. 2681 (1998).

(2) If a federal credit union acquires premises for future expansion, it must partially occupy them within a reasonable period, but no later than three years after the date of acquisition. If the premises are unimproved land or unimproved real property, however, the three-year partial occupation requirement is extended to six years. NCUA may waive the partial occupation requirements. To seek a waiver, a federal credit union must submit a written request to its regional office within 30 months after the property is acquired and fully explain why it needs the waiver. The regional director will provide the federal credit union a written response, either approving or disapproving the request. The regional director's decision will be based on safety and soundness considerations.

(3) A federal credit union must make diligent efforts to dispose of abandoned premises and any other real property it does not intend to use in transacting business. The federal credit union must seek fair market value for the property, and record its efforts to dispose of abandoned premises. After premises have been abandoned for four years, the federal credit union must publicly advertise the property for sale. The federal credit union must complete the sale within five years of abandonment, unless NCUA waives this requirement. To seek a waiver, a federal credit union must submit a written request to its regional office and fully explain why it needs the waiver. The regional director will provide the federal credit union a written response, either approving or disapproving the request. The regional director's decision will be based on safety and soundness considerations.

(e) *Prohibited Transactions.*

(1) A federal credit union must not acquire, or lease for one year or longer, premises from any of the following, unless NCUA waives this prohibition:

(i) A member of the federal credit union's board of directors, credit committee, supervisory committee, or senior management, or an immediate family member of such individual;

(ii) A corporation in which a member of the federal credit union's board of directors, credit committee, supervisory committee, or senior management, or an immediate family member of such individual, is an officer or director, or has a stock interest of 10 percent or more; or

(iii) A partnership, limited liability company, or other entity in which a member of the federal credit union's board of directors, credit committee, supervisory committee, or senior management, or an immediate family member of such individual, is a general partner, or a limited partner or entity member with an interest of 10 percent or more.

(2) A federal credit union must not lease for one year or longer premises from any of its employees if the employee is directly involved in investments in fixed assets, unless the federal credit union's board of directors determines the employee's involvement is not a conflict of interest.

(3) All transactions with business associates or family members not specifically prohibited by this section must be conducted at arm's length and in the interest of the federal credit union.

(4) To seek a waiver from any of the prohibitions in this section (e), a federal credit union must submit a written request to its regional office and fully explain why it needs the waiver. Within 45 days of the receipt of the waiver request or all necessary documentation, whichever is later, the regional director will provide the federal credit union a written response, either approving or disapproving its request. The regional director's decision will be based on safety and soundness considerations and a determination as to whether a conflict of interest exists.

[FR Doc. 2013–06352 Filed 3–19–13; 8:45 am]

BILLING CODE 7535–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. CPSC–2008–0005]

16 CFR Part 1634

Upholstered Furniture Fire Safety Technology; Meeting and Request for Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of meeting and request for comments.

SUMMARY: The Consumer Product Safety Commission (CPSC, Commission, or we) is announcing its intent to hold a meeting on upholstered furniture fire safety technologies. The meeting will be held at the CPSC's laboratory in Rockville, MD, on April 25, 2013. We invite interested parties to participate in or attend the meeting. We also invite interested parties to submit comments related to the meeting or the possible change in regulatory approach discussed in this notice.

DATES: The meeting will be held from 9:00 a.m. to 4:00 p.m. on April 25, 2013. Individuals interested in serving on panels or presenting information at the meeting should register by March 25, 2013; all other individuals who wish to attend the meeting should register by April 18, 2013. Written comments must be received by July 1, 2013.

ADDRESSES: The meeting will be held at the CPSC's National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850. Persons interested in serving on a panel, presenting information, or attending the meeting should register online at *http://www.cpsc.gov/meetingsignup.html* and click on the link titled, ''Upholstered Furniture Fire Safety Technology Meeting.''

You may submit written comments, identified by Docket No. CPSC–2008–0005, by any of the following methods:

Submit electronic comments in the following way:

Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.*

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

FOR FURTHER INFORMATION CONTACT: Rohit Khanna, Office of Hazard Identification and Reduction, 5 Research Place, Rockville, MD 20850, telephone 301–987–2508, email *furnituretechmeeting@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 2008, the Commission published a notice of proposed rulemaking (NPR) proposing a standard for the flammability of residential upholstered furniture. 73 FR 11702. The NPR originated from a petition submitted by the National Association of State Fire Marshals (NASFM) in 1993, and subsequent work by CPSC staff. The

history of the upholstered furniture rulemaking is summarized in the preamble to the NPR. 73 FR 11702. Under the NPR, upholstered furniture could meet the proposed standard by having either: (1) Upholstery cover material that complies with the prescribed smoldering ignition resistance test (called ''Type I furniture'') or (2) an interior fire barrier that complies with specified smoldering and open-flame ignition resistance tests (called ''Type II furniture''). The proposed rule set forth performance tests to be conducted with materials installed in mockups (using standardized test materials) to simulate the intersection of the seating area of an item of upholstered furniture. At the time the NPR was published, CPSC staff stated that real scale validation testing was needed to demonstrate that the bench-scale test approach in the NPR was adequate to address the fire performance of full-scale furniture. This point was also raised later in public comments received in response to the NPR.

Since the Commission published the NPR, CPSC staff has conducted testing of upholstered furniture, using both full-scale furniture and bench-scale models, as proposed in the NPR. For this test series, the bench-scale performance did not demonstrate an adequate prediction of real furniture flammability performance, especially in the smoldering ignition tests. The open-flame ignition bench-scale qualification tests for fire barriers, however, do appear to result in improvements in full-scale fire performance. At this point, CPSC's testing indicates significant promise for barriers as a means to address the flammability risk posed by upholstered furniture.

The Commission staff believes that fire barrier technology likely has advanced since publication of the NPR. One purpose of the Fire Safety Technology meeting is to gather additional information about the current and anticipated progress in fire barrier technologies and their application to upholstered furniture. Another purpose is to discuss other technologies and options to reduce the fire hazard posed by residential furniture.

II. Topics for the Meeting

In general, the meeting will focus on current and anticipated progress on fire barrier technologies and other options to reduce the fire hazard posed by residential furniture. We have identified the topics for the meeting below. In Section IV of this notice, we are seeking written comments on these topics as well as additional topics that are beyond the scope of what will be discussed at the meeting. We have identified the following specific topics we would like panelists to address at the meeting:

1. Fire Barriers
- Types of products available
- Materials and technologies used in fire barriers
- Capabilities and limitations of fire barriers
- Mattress fire barriers
- Cost considerations

2. Commercial Furniture Fire Safety Technologies
- Fire reduction strategies
- Applicability to residential furniture

3. Application of Other Fire Safety Technologies to Residential Furniture
- Fire technologies used in marine and aviation furniture
- Fire technologies used in other countries
- Cost considerations

We will determine the order of the panel sessions once we confirm the number of panelists available for each topic area. We may combine, expand, or eliminate panel sessions, depending upon the level of interest. The final schedule will be announced on our Web site by April 11, 2013.

III. Details Regarding the Meeting

A. When and where will the meeting be held?

The meeting will be held from 9:00 a.m. to 4:00 p.m. on April 25, 2013, at the CPSC's Laboratory, 5 Research Place, Rockville, MD 20850.

B. How do you register for the meeting?

If you would like to be a panelist for a specific session of the meeting, you should register by March 25, 2013. (See the **ADDRESSES** portion of this document for the Web site link and instructions on where to register.) We also ask that you submit a brief (less than 200 word) abstract of your topic and area of expertise. If we receive more requests for a particular session from potential panelists than time will allow, staff will select panelists based on a variety of considerations, including: Whether the information to be presented has been received in previous open comment periods; the individual's familiarity or expertise with the topic to be discussed; the practical utility in the information to be presented; the topic's relevance to the identified theme and topic area. Although an effort will be made to accommodate all persons who wish to be panelists, we expect to limit each panel session to no more than approximately five panelists. Therefore, the final number of panelists may be limited. We recommend that individuals and organizations with common interests consolidate or coordinate their panelist requests. To assist in making final panelist selections, staff may ask potential panelists to submit planned presentations in addition to the initial abstract. We plan to notify selected panelists by April 4, 2013.

If you wish to attend and participate in the meeting, but you do not wish to be a panelist, you should register by April 18, 2013, and identify your affiliation. Every effort will be made to accommodate each person's request; however, we may need to limit registration to meet the occupant capacity of our meeting rooms. If you are unable to attend the meeting in person, the meeting will be available through a webcast, but you will not be able to interact with the panels and presenters. You do not need to register for the webcast.

If you wish to submit written comments, you may do so before or after the meeting, by any of the methods stated in the **ADDRESSES** portion of this notice. These comments should be received by July 1, 2013. Comments should focus on new information that was not submitted previously that is related to the topic areas listed above.

C. What will be the format of the meeting?

The meeting will open with a plenary session that includes a brief overview of the Commission's past activities on the furniture flammability rulemaking. Following that, there will be a series of panels covering the topics listed above. Each panel session will consist of stakeholders and members of the public and will be moderated by CPSC staff. We expect potential panelists to speak for approximately 10 minutes each about their topic area. At the conclusion of the panel's presentations, there will be a question, answer, and discussion session among the panelists and the audience, limited to the topics discussed by the panelists. Each panel session is expected to last approximately 1 hour and 45 minutes.

D. What happens if few people register for the meeting?

If fewer than 6 panelists or 20 participants register for the meeting, we may cancel the meeting. If we decide to cancel the meeting for this or any other reason, we will post a cancellation notice on the registration Web page for the meeting and send an email to each registered participant who provides a valid email address when registering.

IV. Request for Comments

We request comments on the possibility of moving from a regulatory

approach that primarily addresses fire deaths caused by smoldering ignition sources using bench scale models to one that relies on the use of fire barriers to address fires started by multiple types of ignition sources (including smoking materials) by limiting fire growth similar to the performance requirements in 16 CFR 1633. Staff has encountered problems with controlling standard materials (foam, fabric, barriers) when used in bench scale tests with a smoldering ignition source. Staff became concerned with the NPR approach when correlation of fire performance between bench scale tests and full scale chair tests—when tested for smoldering ignition—was not validated. Chairs tested with fire barriers consistently performed better than non-barrier chairs in open flame testing. In assessing the potential new strategy, CPSC staff is seeking information on the following questions:

1. Can fire barriers used by the mattress industry be used in upholstered furniture applications?
2. What modifications to mattress fire barriers, if any, are necessary to make them effective in upholstered furniture?
3. What technologies (Fire retardant (FR) chemicals, specialty fibers/fabrics without FR chemicals, inherently fire resistant materials, etc.) do fire barrier manufacturers use to achieve improved fire performance?
4. Do fire barrier manufacturers use FR chemicals to achieve improved fire performance? If so, are the FR chemicals covalently bonded to the barrier? What is the risk of human exposure from the specific FR chemicals used? What exposure testing and data exists for the specific FR chemicals used? Is the product that uses an FR chemical based fire barrier labeled to indicate use of such FR chemicals within it?
5. What, if any, FR chemicals are used in mattress or other fire barrier technologies?
6. What are the cost considerations for using fire barriers? How does furniture manufacturing and assembling change with a fire barrier?
7. Given the variety of ignition sources involved in furniture fires, which ignition sources resulting in fatalities would fire barriers be effective in addressing the fatalities?
8. What fire safety technologies from commercial furniture can be applied to residential furniture?
9. What fire safety technologies from other industries (*e.g.,* marine, aviation) can be applied to residential furniture?
10. For fire barrier materials that do not use FR chemical treatments, what materials are used and what human exposure data exist for those materials?

Dated: March 15, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–06372 Filed 3–19–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 16, 106, 110, 114, 117, 120, 123, 129, 179, and 211

[Docket No. FDA–2011–N–0920]

RIN 0910–AG36

Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA or we) is correcting a proposed rule that published in the **Federal Register** of January 16, 2013. That proposed rule would amend our regulation for current good manufacturing practice in manufacturing, packing, or holding human food (CGMPs) to modernize it and to add requirements for domestic and foreign facilities that are required to register under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to establish and implement hazard analysis and risk-based preventive controls for human food. That proposed rule also would revise certain definitions in our current regulation for registration of food facilities to clarify the scope of the exemption from registration requirements provided by the FD&C Act for ''farms.'' We proposed these actions as part of our announced initiative to revisit the CGMPs since they were last revised in 1986 and to implement new statutory provisions in the FD&C Act. The document published with several typographical errors, stylistic errors (such as incorrect indentation of bulleted paragraphs and a gap in the sequential numbering of tables), and a mistake in the date of a reference. The document also published with an Appendix in which all references are numbered incorrectly. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Jenny Scott, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2166.

SUPPLEMENTARY INFORMATION: FDA is correcting the January 16, 2013 (78 FR 3646), proposed rule entitled ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food.'' The document published with several typographical errors, stylistic errors (such as incorrect indentation of bulleted paragraphs and a gap in the sequential numbering of tables), and a mistake in the date of a reference. We note that there are a total of 10 numbered tables in the preamble. These tables are numbered as follows: Table 1 (page 3675), table 2 (page 3679), table 3 (page 3680), table 4 (page 3682), table 5 (page 3687), table 6 (page 3692), table 8 (page 3714), table 9 (page 3717), table 10 (page 3718), and table 11 (page 3728). There is no table numbered ''Table 7''. We are not changing the table numbers to adjust the gap between tables 6 and 8 because the cross-references within the document to tables 8, 9, 10, and 11 are all correct, and because the gap between tables 6 and 8 is a stylistic error that does not affect the substantive content of the document. We apologize for any confusion. The document also published with an Appendix in which all references are numbered incorrectly. This document corrects those errors.

In FR Doc. 2013–00125, beginning on page 3646, in the **Federal Register** of Wednesday, January 16, 2013, we are making the following corrections:

1. On page 3650, in the first column, in the first full paragraph, in the last sentence, ''Pub. L. 111–533'' is corrected to read ''Public Law 111–353''.
2. On page 3717, in the second column of ''Table 9—Proposed Revisions for Consistency of Terms,'' in the first entry, ''the phrase ''food-production purposes (i.e., manufacturing, processing, packing, and holding) to consistently use the same group of terms in proposed part 117'' is corrected by closing the quotation after the parenthetical phrase to read ''the phrase ''food-production purposes (i.e., manufacturing, processing, packing, and holding)'' to consistently use the same group of terms in proposed part 117''.
3. On page 3728, in the first column of ''Table 11—Potential Revisions to Establish Requirements in Place of Current Guidance,'' in the fifth entry, ''§ 117.40(a)(1)'' is corrected to read ''§ 117.40(a)(3)''.
4. On page 3728, in the second column of ''Table 11—Potential Revisions to Establish Requirements in Place of Current Guidance,'' in the fifth entry, the word ''must'' in ''All

equipment must be so installed'' is corrected to be italicized and read ''must'' for emphasis.

5. On page 3735, in the first column, in line 25 under ''Radiological Hazards,'' the section reference ''III.D.2.e'' is corrected to read ''II.D.2.e''.

6. On page 3765, in the second column, the ninth, tenth, eleventh, and twelfth bulleted paragraphs and in the third column, the first and second bulleted paragraphs are corrected by doubly indenting them to show that these bulleted paragraphs are all examples relevant to the eighth bulleted paragraph on specifying the frequency of sample collection.

7. On page 3780, in the third column, in line 15, ''requirements of part 110'' is corrected to read ''requirements of part 117''.

8. On page 3794, in the third column, in the third paragraph, the date ''2012'' in reference 194 is corrected to read ''2013''.

9. In proposed § 117.135(d)(3)(iv), on page 3806, in the third column, ''records review in accordance with § 117.150(d)(5)(i)'' is corrected to read ''records review in accordance with § 117.150(d)(2)(i)''.

10. On pages 3812 through 3821, the references to the Appendix are numbered incorrectly. For the convenience of the reader, a corrected Appendix, with the correct reference numbers, is printed below.

The Appendix has been revised to read as follows:

Appendix

Although the proposed rule that is the subject of this document does not include specific codified language regarding environmental monitoring or finished product testing, we believe that these regimes can play a critical role in a modern food safety system. In sections XII.J.2 and XII.J.3 of the preamble of this document, we request comment on when and how these types of testing are an appropriate means of implementing the statutory directives set out in section 418 of the FD&C Act. In this Appendix, we provide background material on these testing measures.

I. The Role of Testing as a Verification Measure in a Modern Food Safety System

A. Verification of Preventive Controls

The safety of food is principally ensured by the effective implementation of scientifically valid preventive control measures throughout the food chain (Ref. 1) (Ref. 2). Prevention of hazards in food is much more effective than trying to differentiate safe from unsafe food using testing. Although testing is rarely considered a control measure, it plays a very important role in ensuring the safety of food. An important purpose of testing is to verify that control measures, including those related to suppliers and those verified through environmental monitoring, are controlling the hazard (Ref. 3) (Ref. 4). Testing is used in conjunction with other verification measures in the food safety system, such as audits of suppliers, observations of whether activities are being conducted according to the food safety plan, and reviewing records to determine whether process controls are meeting specified limits for parameters established in the food safety plan. Although testing may be conducted for biological, chemical, physical or radiological hazards, the most common testing is for microbiological hazards. Thus, much of the testing described below focuses on microbial testing, but many of the issues discussed apply to testing for other hazards as well. We focus more of our discussion below on verification testing of the environment because of the increasing recognition of the benefits of such testing in identifying conditions that could result in environmental pathogens contaminating food; thus such verification testing is important in preventing contamination in food, whereas verification testing of raw materials, ingredients, and finished products is used to detect contamination that has already occurred.

As discussed in sections I.C, I.E, and I.F of this Appendix, microbial testing may include:

- Testing raw materials and ingredients to verify that suppliers have significantly minimized or prevented hazards reasonably likely to occur in the raw materials and ingredients;
- Testing the environment to verify that sanitation controls have significantly minimized or prevented the potential for environmental pathogens to contaminate RTE food; and
- Testing finished product to verify that preventive controls have significantly minimized or prevented hazards reasonably likely to occur in the food.

Each type of testing provides information applicable to managing hazards in foods, depending on the food and process. For example, a dry blending operation, e.g., for spices and seasonings, often verifies its supplier controls by testing incoming ingredients before use (as discussed in section I.C of this Appendix) and periodically sampling and testing finished products. If all the ingredients being blended had been treated to adequately reduce hazards such as *Salmonella* spp., a dry blending operation generally does less testing to verify supplier controls than if this were not the case. (We use the term ''adequately reduce'' (which is a term used in some of our guidance documents) (Ref. 5) (Ref. 6) to mean the same as ''significantly minimize or prevent'' as described in section 418 of the FD&C Act or ''prevent, eliminate or reduce to an acceptable level'' as used in our seafood and juice HACCP regulations. All these terms mean to reduce a hazard to an extent that it is not reasonably likely to cause illness or injury.) A dry blending operation generally does not test incoming ingredients if the facility treats the blended materials to ensure adequate reduction of pathogens but sometimes tests finished product to verify preventive controls have been effective. A dry blending operation also sometimes uses environmental monitoring to verify that sanitation controls to significantly minimize or prevent the potential for environmental pathogens to contaminate the blended materials have been effective.

For acidified canned vegetables in which a lethal process is delivered in the final package, microbial testing of incoming ingredients and of finished product provides little benefit as a verification activity (although it would be used in process validation); however, facilities producing such products sometimes conduct periodic testing of incoming ingredients for pesticides as an appropriate supplier verification activity.

B. Scientifically Valid Sampling and Testing

Consistent with our previous discussion of the term ''scientifically valid'' in the proposed rule to establish CGMP requirements for dietary ingredients and dietary supplements (68 FR 12158 at 12198), we use the term ''scientifically valid'' with respect to testing to mean using an approach to both sampling and testing that is based on scientific information, data, or results published in, for example, scientific journals, references, text books, or proprietary research. A scientifically valid analytical method is one that is based on scientific data or results published in, for example, scientific journals, references, text books, or proprietary research (68 FR 12158 at 12198). Sampling and testing used for verification in a food safety system must be scientifically valid if they are to provide assurance that preventive controls are effective.

C. Verification Testing of Raw Materials and Ingredients

Raw materials and ingredients are often tested as part of a supplier approval and verification program, as one of the verification activities when a preventive control that is adequate to significantly minimize or prevent the hazard is not applied at the receiving facility. The utility and frequency of raw material and ingredient testing for verification of supplier controls depend on many factors, including:

- The hazard and its association with the raw material or ingredient;
- The likelihood that the consumer would become ill if the hazard were present in the raw material or ingredient;
- How that raw material or ingredient will be used by the receiving facility (e.g., the effect of processing on the hazard); and
- The potential for contamination of the facility's environment with the hazard in the raw material or ingredient.

Testing a raw material or ingredient occurs more frequently when there is a history of the hazard in the raw material or ingredient, e.g., from a specific supplier or from the country of origin. Once a facility has developed a relationship with a supplier and there is a history of tests negative for the hazard, the frequency is often reduced.

Testing a raw material or ingredient is more useful, and a facility generally tests a raw material or ingredient more frequently, when the raw material or ingredient contains a hazard for which there is a reasonable

probability that exposure to the hazard will result in serious adverse health consequences or death to humans or animals. However, when a hazard that the receiving facility has identified as reasonably likely to occur in a raw material or ingredient is one for which the receiving facility has preventive controls that significantly minimize or prevent the hazard, testing generally is less frequent. An exception to this general paradigm is when the process control depends on the amount of the hazard present in the raw material or ingredient (e.g., when the process control is effective at eliminating 100 microorganisms per gram of ingredient, but not 1000 microorganisms per gram of ingredient) and there is a need to verify that the hazard is not present in amounts that would render the process control ineffective. A receiving facility often finds that testing of raw materials or ingredients is most useful, and generally tests more frequently, when the receiving facility does not have a process that would significantly minimize the hazard and is relying on preventive controls earlier in the supply chain to significantly minimize or prevent the hazard in the raw material or ingredient, as in a bagged salad facility or a dry-mix operation producing, for example, spice blends or trail mix. In such situations, the testing is conducted to verify the preventive controls used to ensure that hazards in the raw material or ingredient have been significantly minimized or prevented.

The frequency of the testing conducted by a facility generally depends in part on the likelihood and severity of illness to the consumer if the hazard were present, the ability of supplier controls to significantly minimize or prevent the hazard in the raw material or ingredient, the practicality of testing to detect the hazard, and other factors. For example, a facility generally tests a raw material or ingredient more frequently from a supplier that does not have a kill step for *Salmonella* spp. in shelled nutmeats compared to a supplier that steam treats the nuts to kill *Salmonella* spp. As another example, if a facility tests a raw material or ingredient as part of its food safety program for salad greens, the facility is more likely to test more frequently for *E. coli* O157:H7 than for other Shiga-toxin producing *E. coli* (pathogenic *E. coli* that produce the same toxin as *E. coli* O157:H7 but are less likely to cause severe illness (Ref. 7)), based on both the severity of the illness to the consumer and practical problems with testing fresh produce for pathogenic strains of Shiga-toxin producing *E. coli*. Where a raw material or ingredient could introduce an environmental pathogen such as *Salmonella* spp. or *L. monocytogenes* to the facility (e.g., raw nuts or soy powder for *Salmonella* spp.; chopped celery to be used in a salad for *L. monocytogenes*), a facility generally tests the raw material or ingredient more frequently to verify that supplier controls for the raw material or ingredient minimize to the extent possible the potential for a contaminated raw material or ingredient to introduce the environmental pathogen to the facility's environment.

As discussed in section I.F of this Appendix, there are limitations to testing food. Thus, as with other testing, raw material or ingredient testing is rarely the sole basis for making a determination on the safety of a raw material or ingredient.

D. Verification of Sanitation Controls to Significantly Minimize or Prevent the Potential for an Environmental Pathogen to Contaminate Food

1. Environmental Pathogens in Food

As discussed in section II.D of the preamble of this document, food can become contaminated with pathogenic microorganisms at many different steps in the farm-to-table continuum. Any time a food is exposed to the environment during a manufacturing, processing, packing, or holding activity, there is the potential for the food to be contaminated with pathogenic microorganisms. As discussed in section X.B of the preamble of this document, proposed § 117.3 would define the term ''environmental pathogen'' to mean a microorganism that is of public health significance and is capable of surviving and persisting within the manufacturing, processing, packing, or holding environment. The environmental pathogens most frequently involved in the contamination of foods leading to foodborne illness are *Salmonella* spp. and *L. monocytogenes*.

2. *Salmonella* spp. as an Environmental Pathogen

We discuss *Salmonella* spp. in section II.D.2.a of the preamble of this document. *Salmonella* has been isolated from a variety of foods and it can get into food by a variety of mechanisms (see section II.D of the preamble of this document). Our focus here is on *Salmonella* contamination from the environment (discussed further in section I.D.2 of this Appendix), particularly as a hazard associated with low-moisture foods (Ref. 8) (Ref. 9). Low-moisture foods include cereal, peanuts, nuts, nut butters (including peanut butter), spices, dried herbs, milk powder, chocolate and many other foods. Although *Salmonella* outbreaks from low-moisture foods are less common than from foods such as eggs and produce, several such outbreaks in the last decade have involved hundreds of illnesses (Ref. 8). The low-moisture foods causing outbreaks included cereal, raw almonds, dried snacks, spices, and peanut butter (Ref. 8) (Ref. 10). Chocolate also has been a source of outbreaks from *Salmonella* spp., although none in the U.S. in recent years (Ref. 8). Dried dairy products, such as milk and whey, also present a risk of contamination with *Salmonella* spp. from the environment (Ref. 11). A review of FDA recall data from 1970 to 2003 showed there were 21 recalls of spices and herbs contaminated with *Salmonella* spp. (Ref. 12). Almost half of the 86 primary RFR entries reported in the first RFR Annual Report due to finding *Salmonella* spp. were from low-moisture foods (Ref. 13).

3. *Listeria monocytogenes* as an Environmental Pathogen

We discuss *L. monocytogenes* in section II.D.2.a of the preamble of this document. As discussed in that section, the FDA/FSIS Lm RA shows that the risk of illness from *L. monocytogenes* increases with the number of cells ingested and that there is greater risk of illness from RTE foods that support growth of *L. monocytogenes* than from those that do not (Ref. 14). A key finding of the risk assessment released by FAO in 2004 was that the models developed predict that nearly all cases of listeriosis result from the consumption of high numbers of the pathogen (Ref. 15). Refrigerated foods present a greater risk from *L. monocytogenes* because some refrigerated foods that support growth may be held for an extended period of time, thus increasing the risk if *L. monocytogenes* is present in a food. Growth of *L. monocytogenes* does not occur if the food is frozen, but the organism may survive. If a frozen food contaminated with *L. monocytogenes* is thawed and held at temperatures that support growth, e.g., under refrigeration, the risk of illness from *L. monocytogenes* in that food increases. As discussed in section II.D.1 of the preamble of this document, contamination of RTE food with *L. monocytogenes* from the environment is common and, thus, targeted preventive controls to significantly minimize or prevent *L. monocytogenes* contamination of RTE foods are warranted.

4. Environmental Pathogens in the Plant Environment

Environmental pathogens may be introduced into a facility through raw materials or ingredients, people, or objects (Ref. 8) (Ref. 9) (Ref. 16) (Ref. 17) (Ref. 18). Once in the facility, environmental pathogens can be a source of contamination of food. Environmental pathogens may be transient strains or resident strains (Ref. 8) (Ref. 9) (Ref. 16). Transient strains are environmental pathogens that contaminate a site in the facility where they can be eliminated by normal cleaning and sanitizing (Ref. 16). Transient strains tend to vary over time within a facility, e.g., they will be found in different areas and the specific strain will differ. Resident strains are environmental pathogens that contaminate a site in the facility that is difficult to clean and sanitize with normal cleaning and sanitizing procedures and, thus, these strains become established in what is referred to as a ''niche'' or harborage site (Ref. 8) (Ref. 9) (Ref. 16) (Ref. 17) (Ref. 18) (Ref. 19). The finding of the same specific strain multiple times in a facility often indicates a resident strain.

If a harborage site contains nutrients (i.e., food) and water and is exposed to a temperature that falls within the growth range of the environmental pathogen, the pathogen can multiply, which increases the chance that it will be transferred to other sites (including food-contact surfaces) and to food. Transfer can occur by people (e.g., if a person touches the contaminated site and then touches other objects, or tracks the pathogen from the contamination site to other sites on shoes), by equipment (e.g., if the pathogen is picked up by the wheels of a cart or forklift and is transferred to other locations), by water (e.g., water that contacts the harborage site is splashed onto other areas, including equipment, or aerosols containing the pathogen transfer it to other areas) or by air (dissemination of contaminated dust particles by air handling systems) (Ref. 8) (Ref. 9) (Ref. 19) (Ref. 17).

Such transfer mechanisms from harborage sites can result in intermittent contamination of food-contact surfaces and food over long periods of time, often with the same strain of the pathogen (Ref. 8) (Ref. 16) (Ref. 19) (Ref. 20).

5. Contamination of Food With *Salmonella* spp. From the Plant Environment

As discussed immediately below, the available data and information associate insanitary conditions in food facilities with contamination of a number of foods with the environmental pathogen *Salmonella* spp. Such contamination has led to recalls and to outbreaks of foodborne illness.

In 1998, a breakfast cereal product was implicated in an outbreak, due to *Salmonella* Agona, that caused 409 illnesses and one death in 23 states (Ref. 20) (Ref. 21) (Ref. 22). During the outbreak investigation, *Salmonella* was isolated from various locations in the plant, including the floor, processing equipment, and the exhaust system of the implicated processing line (Ref. 20). In 2008, the same *Salmonella* Agona strain was again implicated in an outbreak linked to a similar cereal product from the same manufacturing facility (Ref. 23). In the 2008 outbreak, the same strain was isolated from patients, cereal and the plant environment (Ref. 23).

In 2006–2007, a commercial brand peanut butter contaminated with *Salmonella* Tennessee caused 715 illnesses and 129 hospitalizations (Ref. 24). FDA isolated *Salmonella* Tennessee from 13 unopened jars of peanut butter with production dates ranging from August 2006 to January 2007 and from two plant environmental samples (Ref. 25).

During the years 2008 through 2010, there were three large recalls of foods containing ingredients contaminated with *Salmonella* spp. where FDA's investigation identified insanitary conditions at the facility that manufactured the ingredient and detected *Salmonella* spp. in the plant environment (Ref. 26) (Ref. 27) (Ref. 28) (Ref. 29) (Ref. 30) (Ref. 31) (Ref. 32) (Ref. 33) (Ref. 34). In 2008–2009, an outbreak was linked to *Salmonella* Typhimurium in peanut butter and peanut paste (Ref. 28) (Ref. 29) (Ref. 32). This outbreak resulted in an estimated 714 illnesses, 166 hospitalizations, and 9 deaths (Ref. 29). Implicated foods included contaminated peanut butter consumed at institutional settings and crackers made with the contaminated peanut butter as an ingredient (Ref. 28) (Ref. 29). Inspections conducted by FDA at the two implicated ingredient manufacturing facilities (which shared ingredients) revealed lack of controls to prevent product contamination from pests, from an insanitary air-circulation system, from insanitary food-contact surfaces, and from the processing environment (Ref. 26) (Ref. 30) (Ref. 31). Several strains of *Salmonella* spp. were found in multiple products and in the plant environment (Ref. 30). This outbreak led to the recall of more than 3900 products containing peanut-derived ingredients (Ref. 35).

In 2009, USDA detected *Salmonella* spp. in a powdered dairy shake and FDA began an investigation of the suppliers of ingredients used to manufacture the product. The inspection of the supplier of one of the ingredients uncovered insanitary conditions that resulted in the recall of multiple ingredients manufactured by that supplier, including instant nonfat dried milk and whey proteins, produced over a 2-year period (Ref. 33). During its investigation of the supplier's facility, FDA identified several strains of *Salmonella* spp. on food-contact and non-food-contact surfaces and in other areas of the plant environment, as well as a number of sanitation deficiencies (Ref. 34).

In 2010, FDA received a report through the RFR of *Salmonella* contamination of hydrolyzed vegetable proteins that a company purchased as an ingredient. Both the company that submitted the report and FDA found multiple *Salmonella*-positive samples collected from the plant environment, including food-contact surfaces. FDA found numerous sanitation deficiencies during its inspection of the production facility. There were no reports of illness associated with the contamination, but multiple product recalls resulted (Ref. 27).

6. Contamination of Food with *L. monocytogenes* From the Plant Environment

As discussed immediately below, the available data and information associate insanitary conditions in food facilities with contamination of a number of foods with the environmental pathogen *L. monocytogenes.* Such contamination has led to recalls and to outbreaks of foodborne illness.

Between October 2008 and March 2009, eight cases of listeriosis from five states were linked to Mexican-style cheese that was likely contaminated post-pasteurization (Ref. 36). The outbreak strain was isolated from product and from a vat gasket in a post-pasteurization section of the processing line.

In October 2010, the Texas Department of State Health Services ordered a fresh-cut produce facility to stop processing after laboratory tests of chopped celery indicated the presence of *L. monocytogenes* (Ref. 37). The testing was done as part of an investigation of 10 cases of listeriosis, six of which were linked to chopped celery from the facility. Texas Department of State Health Services and FDA inspectors found sanitation deficiencies at the plant (Ref. 37) (Ref. 38) and suggested that the *L. monocytogenes* in the chopped celery may have contaminated other produce. FDA laboratory testing found *L. monocytogenes* in multiple locations in the plant environment, including on food-contact surfaces; the DNA fingerprint of the *L. monocytogenes* in the FDA samples matched the DNA fingerprint of the clinical cases reported by the Texas Department of State Health Services (Ref. 39).

In 2011, an outbreak of listeriosis from cantaloupes was attributed to insanitary conditions at a facility that washed, packed, cooled, and stored intact cantaloupes (Ref. 40) (Ref. 41). The outbreak appears to have occurred due to a combination of factors, including pooled water on the floor of the facility (which was also difficult to clean), poorly designed equipment (not easily cleaned and sanitized) that was previously used for a different commodity, no pre-cool step, a truck parked near the packing area that had visited a cattle operation, and possible low level contamination from the growing/harvesting operation (Ref. 40).

There have been several outbreaks in which meat or poultry products produced in FSIS-inspected establishments were contaminated with *L. monocytogenes* from the plant environment (Ref. 42), and much of our understanding of sources of *L. monocytogenes* in the plant environment, as well as appropriate ways to control this organism, has come from the efforts of FSIS and the meat and poultry industry to control this hazard in FSIS-inspected establishments (Ref. 18). For example, harborage sites such as hollow rollers, rubber seals, close-fitting metal-to-metal spaces in equipment such as slicers, and on-off switches of equipment were identified in meat and poultry establishments. The increased risk of contamination resulting from construction, and the importance of control of traffic and water in the RTE area also became widely known as a result of investigations at meat and poultry establishments (Ref. 17) (Ref. 18).

Outbreaks of listeriosis resulting from environmental contamination have also occurred in other countries. For example, an outbreak of listeriosis in Finland in 1999 was associated with butter (Ref. 43). The outbreak strain was isolated from the manufacturing facility, including from the packaging machine and the floor (Ref. 43). An outbreak of listeriosis in 2009 in Austria and Germany was associated with acid curd cheese; the outbreak strain was found in the production facility (Ref. 44).

Many foods without a known association with illnesses have been recalled due to the presence of *L. monocytogenes* (Ref. 45) (Ref. 46) (Ref. 47) (Ref. 48). There is also an extensive body of literature on isolation of *L. monocytogenes* in the food processing environment. Information on the environment as a source of *Listeria* has been available for many years. For example, in a 1989 study involving 6 different types of food plants (frozen food, fluid dairy, cheese, ice cream, potato processing, and dry food), drains, floors, standing water, food residues, and food-contact surfaces were found to be positive (Ref. 49). No finished foods were tested, but the authors concluded that food production environments could be the source of contamination for foods that have received listericidal treatments and that measures should be taken to prevent survival and growth of these organisms in food environments (Ref. 49).

Listeria testing in 62 dairy facilities during 1987–1988 (including facilities producing fluid milk, frozen product, butter, processed cheese, natural cheese and dry products) found *Listeria* in a variety of locations, including packaging equipment, conveyors, coolers, drains and floors (Ref. 50). *Listeria* was detected more frequently in wet locations, including drains, conveyors and floors (Ref. 50). Pritchard and co-workers also examined 21 dairy processing environments for *Listeria* and found 80 of 378 sites positive for *Listeria* spp. (Ref. 51). Sites positive for *L. monocytogenes* included holding tanks, table tops, conveyor/chain systems, a milk filler and a brine pre-filter machine (Ref. 51).

The packaging machine was found to be the main problem with *L. monocytogenes*

that persisted in an ice cream plant in Finland for several years and occasionally contaminated finished product (Ref. 52). A volumetric doser was found to be the source of *L. monocytogenes* in sauces produced in a fresh sauce production plant in Italy (Ref. 53), and slicers and conveyor belts were found to contribute to contamination of sandwiches in a Swiss sandwich producing plant (Ref. 54). *L. monocytogenes* also has been found on tables, water hoses, air guns, floors, gloves, drains and a bread-feeding machine (Ref. 54).

Some of the available data and information about the potential presence of the environmental pathogen *L. monocytogenes* comes from studies conducted to detect the presence of *Listeria* spp. in lieu of *L. monocytogenes. Listeria* spp. are ''indicators'' of the potential presence of *L. monocytogenes.* (See section I.E of this Appendix for a discussion of indicator organisms). A study conducted over a 4-year time period on the prevalence of *L. monocytogenes* on produce and in the plant environment in a large produce processing plant in Poland demonstrated that the indicator organism *Listeria* spp., and the environmental pathogen *L. monocytogenes,* could be isolated from conveyor belts after blanching and from freezing tunnels (Ref. 55). Studies in a vegetable processing plant in Spain found the indicator organism *L. innocua* (commonly found when the species of *Listeria* spp. are determined) in frozen RTE vegetables and in the plant environment, e.g., washing tunnels, conveyor belts and floors (Ref. 56). *L. innocua* was more prevalent than *L. monocytogenes* in the frozen RTE vegetables and in the plant environment. In both of these examples, the presence of an ''indicator organism'' (either *Listeria* spp. or *L. innocua)* demonstrated that insanitary conditions existed that were conducive to the presence and harborage of *L. monocytogenes.*

E. Role of Environmental Monitoring in Verifying the Implementation and Effectiveness of Sanitation Controls in Significantly Minimizing or Preventing the Potential for an Environmental Pathogen to Contaminate Food

1. Purpose of Environmental Monitoring

Appropriate sanitation controls can minimize the presence of environmental pathogens in the plant and the transfer of environmental pathogens to food-contact surfaces and to food (Ref. 16). The purpose of monitoring for environmental pathogens in facilities where food is manufactured, processed, packed or held is to verify the implementation and effectiveness of sanitation controls intended to significantly minimize or prevent the potential for an environmental pathogen to contaminate food. In so doing, environmental monitoring can find sources of environmental pathogens that remain in the facility after routine cleaning and sanitizing (particularly strains that may have become established in the facility as resident strains) so that the environmental pathogens can be eliminated by appropriate corrective actions (e.g., intensified cleaning and sanitizing, sometimes involving equipment disassembly). Pritchard et al. noted that daily cleaning and sanitizing appeared to be effective in eliminating transient contaminants from equipment and concluded that greater emphasis needs to be placed on cleaning and sanitizing the plant environment (Ref. 51). A robust environmental monitoring program for environmental pathogens can detect these strains and enables the facility to eliminate them from the environment which can prevent contamination of food with these pathogens and, thus, prevent foodborne illnesses (Ref. 57) (Ref. 17) (Ref. 18) (Ref. 58) (Ref. 59). In the situations described in sections I.D.5 and I.D.6 of this Appendix, such a program for the environmental pathogens *Salmonella* spp. and *L. monocytogenes* might have allowed the facility to detect a problem before product contamination occurred, thereby preventing an outbreak, recall, or both, or minimizing the amount of product affected by a recall. Studies of environmental pathogens have clearly demonstrated that environmental monitoring can identify the presence of situations that can lead to contamination of food and allow actions to be taken to prevent such contamination (Ref. 51) (Ref. 60).

2. Indicator Organisms

The term ''indicator organism'' can have different meanings, depending on the purpose of using an indicator organism. As discussed in the scientific literature, the term ''indicator organism'' means a microorganism or group of microorganisms that is indicative that (1) a food has been exposed to conditions that pose an increased risk for contamination of the food with a pathogen or (2) a food has been exposed to conditions under which a pathogen can increase in numbers (Ref. 61). This definition in the scientific literature is consistent with a definition of indicator organism established by NACMCF as one that indicates a state or condition and an index organism as one for which the concentration or frequency correlates with the concentration or frequency of another microorganism of concern (Ref. 62). FDA considers the NACMCF definition of an indicator organism to be an appropriate working definition for the purpose of this document.

The use of ''indicator organisms'' as a verification of hygiene measures in facilities is common practice (Ref. 63). For example, it is common practice to use the presence of generic (nonpathogenic) *E. coli* in a food processing plant as an indication of whether food was prepared, packed, or held under insanitary conditions, without considering whether the insanitary conditions reflect a specific pathogen, such as *E. coli* O157:H7 or *Salmonella* spp. However, such use of an indicator organism is distinct from the use of indicator organisms as discussed in the remainder of this document—i.e., for the specific purpose of monitoring for the presence of environmental pathogens.

Environmental monitoring for environmental pathogens can be conducted by testing for the specific pathogenic microorganism (e.g., *Salmonella* spp.) or by testing for an ''indicator organism.'' The presence of an indicator organism indicates conditions in which the environmental pathogen may be present. An organism is useful as an indicator organism if there is sufficient association of conditions that could result in the presence of the indicator organism and conditions that could result in the pathogen such that there can be confidence that the pathogen would not be present if the indicator is not present. Attributes that provide scientific support for use of an indicator organism in lieu of a specific pathogen include:

- Similar survival and growth characteristics;
- A shared common source for both organisms; and
- A direct relationship between the state or condition that contributes to the presence of pathogen and the indicator organism (Ref. 62).

The presence of an indicator organism in the plant environment, including on a food-contact surface, does not necessarily mean that an environmental pathogen is in the plant or in a food produced using that food-contact surface—the indicator may be present but the pathogen may be absent. Pritchard et al., in their study on the presence of *Listeria* in dairy plant environments, concluded that, because the level of contamination was higher in environmental samples than in equipment samples, environmental contamination with *Listeria* does not necessarily translate into contamination of equipment in the plant (Ref. 51).

Typically, a facility that finds an indicator organism during environmental monitoring conducts microbial testing of surrounding surfaces and areas to determine the potential source of the contamination, cleans and sanitizes the contaminated surfaces and areas, and conducts additional microbial testing to determine whether the contamination has been eliminated. If the indicator organism is found on retest, the facility generally takes more aggressive corrective actions (e.g., more intensified cleaning and sanitizing, including dismantling equipment, scrubbing surfaces, and heat-treating equipment parts) (Ref. 17). In general, whether a facility takes subsequent steps to determine an indicator organism detected on a food-contact surface is actually the environmental pathogen depends, in part, on the risk of foodborne illness if the food being produced on a food-contact surface that has tested positive for an indicator organism were to be contaminated. For example, the risk of listeriosis is greater if the food supports growth of *L. monocytogenes.* In some cases, a facility simply assumes that a food produced using a food-contact surface that is contaminated with an indicator organism is contaminated with the environmental pathogen and takes corrective action to either reprocess it or divert it to a use that would not present a food safety concern.

3. Environmental Monitoring for L. monocytogenes and the Use of an Indicator Organism

Tests for the indicator organism *Listeria* spp. detect multiple species of *Listeria,* including the pathogen *L. monocytogenes.* There is Federal precedent for the use of *Listeria* spp. as an appropriate indicator organism for *L. monocytogenes.* FSIS has established regulations requiring FSIS-regulated establishments that produce RTE

meat or poultry products exposed to the processing environment after a lethality procedure (e.g., cooking) to prevent product adulteration by *L. monocytogenes.*

FSIS has issued guidelines (FSIS Compliance Guideline for Controlling *Listeria monocytogenes* in Post-lethality Exposed Ready-to-Eat Meat and Poultry Products) (hereinafter the FSIS *Listeria* Compliance Guideline) to help FSIS-regulated establishments that produce RTE meat or poultry products exposed to the processing environment after a lethality procedure comply with the requirements of 9 CFR part 430 (Ref. 64). Under the FSIS *Listeria* Compliance Guideline, FSIS-regulated establishments may establish an environmental monitoring program for *Listeria* spp. rather than for the pathogen, *L. monocytogenes.*

In general, under the FSIS *Listeria* Compliance Guideline, an FSIS-regulated establishment that receives a positive test result for an indicator organism on a food-contact surface:

- Takes corrective action (i.e., intensify the cleaning and sanitizing of the affected food-contact surface);
- Retests the affected food-contact surface; and
- Takes additional corrective action (intensified each time the test is positive for the indicator organism) and conducts additional testing until the affected food-contact surface is negative for the indicator organism.

Some segments of the food industry subject to regulation by FDA have adopted the principles, described in the FSIS *Listeria* Compliance Guideline, for corrective actions after a finding of *Listeria* spp. on food-contact surfaces in the plant. For example, in response to a request for comments on a draft guidance document directed to control of *L. monocytogenes* in refrigerated or frozen ready-to-eat foods, we received letters describing programs similar to the program in the FSIS *Listeria* Compliance Guideline, using *Listeria* spp. as an indicator organism during environmental monitoring for *L. monocytogenes* (Ref. 65) (Ref. 66) (Ref. 67) (Ref. 68). In addition, as discussed in section II.A.1 of the preamble of this document, a key finding of the CGMP Working Group Report was the importance of updating CGMP requirements to require a written environmental pathogen control program for food processors that produce RTE foods that support the growth of *L. monocytogenes.* Written comments from the food industry supported such a control program (Ref. 69). Thus, the importance of controlling *L. monocytogenes* in the environment of RTE food production facilities and using environmental monitoring to detect the presence of *L. monocytogenes* or *Listeria* spp. (as an indicator organism for *L. monocytogenes*) has been well-established.

FDA's current thinking is that *Listeria* spp. is an appropriate indicator organism for *L. monocytogenes,* because tests for *Listeria* spp. will detect multiple species of *Listeria,* including *L. monocytogenes,* and because the available information supports a conclusion that modern sanitation programs, which incorporate environmental monitoring for *Listeria* spp., have public health benefits.

4. Environmental Monitoring for *Salmonella* spp. and the Use of an Indicator Organism

Salmonella spp. is a member of the family Enterobacteriaceae, and thus there is some relationship between the presence of *Salmonella* spp. and the presence of Enterobacteriaceae. There are few studies that have investigated the use of organisms such as Enterobacteriaceae or other members of the family Enterobacteriaceae, such as *E. coli,* to serve as an indicator organism for *Salmonella* spp. in the environment. The European Food Safety Agency (EFSA) evaluated whether environmental monitoring for Enterobacteriaceae as an indicator organism for *Salmonella* spp. (or for *Cronobacter* spp.) could be useful. Although EFSA's focus was on the utility of Enterobacteriaceae as an indicator organism in the production of a single product—i.e., powdered infant formula—their analysis may be relevant to the utility of Enterobacteriaceae as an indicator organism in other dried foods. EFSA concluded that, although there are insufficient data to establish a correlation between the presence of Enterobacteriaceae and *Salmonella* spp. in powdered infant formula because *Salmonella* spp. is so rarely present, monitoring for Enterobacteriaceae in the product environment can be used to confirm the application of GMPs (Ref. 70). ICMSF also considered the utility of environmental monitoring for Enterobacteriaceae as an indicator organism for *Salmonella* spp. ICMSF indicates that, for powdered infant formula manufacturing, low levels of Enterobacteriaceae do not guarantee the absence of *Salmonella* spp. (Ref. 71) and recommends testing directly for the pathogen, as well as for Enterobacteriaceae. FDA agrees with EFSA and ICMSF that there are insufficient data to establish a correlation between the presence of Enterobacteriaceae and *Salmonella* spp. during the production of powdered infant formula; FDA is not aware of any information supporting the use of an indicator organism for the purpose of environmental monitoring for *Salmonella* spp. during the production of other foods, particularly dried foods.

ICMSF recommends testing for *Salmonella* spp. in the environment for a number of other products, e.g., baked dough products (Ref. 72), dry spices receiving a kill step (Ref. 73), dried cereal products (Ref. 74), nuts (Ref. 75), cocoa powder, chocolate and confectionary (Ref. 76), and dried dairy products (Ref. 77). For most of these products ICMSF also recommends testing the environment for Enterobacteriaceae as a hygiene indicator, but not in lieu of the environmental pathogen *Salmonella* spp. Likewise, food industry guidance for low-moisture foods recommends testing for *Salmonella* spp. in the environment (Ref. 59). FDA's current thinking is that there is no currently available indicator organism for *Salmonella* spp. We request data, information, and other comment bearing on whether there is a currently available indicator organism for *Salmonella* spp. that could be used for environmental monitoring.

5. Environmental Monitoring Procedures

The procedures associated with an environmental monitoring program generally include the collection of environmental samples at locations within the facility and testing the samples for the presence of an environmental pathogen or indicator organism. One approach to defining sampling locations is to divide the facility into zones based on the risk with respect to contamination of product. A common industry practice is to use four zones (Ref. 16) (Ref. 59):

- Zone 1 consists of food-contact surfaces;
- Zone 2 consists of non-food-contact surfaces in close proximity to food and food-contact surfaces;
- Zone 3 consists of more remote non-food-contact surfaces that are in the process area and could lead to contamination of zones 1 and 2; and
- Zone 4 consists of non-food-contact surfaces, outside of the processing area, from which environmental pathogens can be introduced into the processing environment.

Generally the number of samples and frequency of testing is higher in zones 1 and 2 because of the greater risk of food contamination if the environmental pathogen is detected in these zones. Information on appropriate locations for sampling within these zones can be found in the literature (Ref. 11) (Ref. 17) (Ref. 50) (Ref. 51) (Ref. 59). Facilities should become familiar with locations in which environmental pathogens have been found in other facilities and use this information in selecting sites to sample.

Examples of appropriate food-contact surfaces that could be monitored include hoppers, bins, conveyors, tables, slicers, blenders, knives and scrapers. Testing food-contact surfaces for *Listeria* spp. is a commonly recommended verification measure for facilities producing refrigerated RTE foods (Ref. 57) (Ref. 16) (Ref. 17). Although some literature suggests that routine environmental monitoring for *Salmonella* spp. in low-moisture food environments would not normally target food-contact surfaces (Ref. 59), the data (discussed in the preamble of this document) available from investigations of food facilities following outbreaks, recalls, or reports to the RFR warrant including food-contact surfaces in a routine environmental testing program for *Salmonella* spp. However, a routine environmental monitoring program for *Salmonella* spp. may not contain the same level of food-contact surface testing (including the frequency of testing and number of samples collected) as a routine environmental monitoring program for *Listeria,* because the same benefits may not be achieved. For example:

- *L. monocytogenes* is usually the environmental pathogen of concern for most wet RTE food production environments. It is important to sample areas where the organisms are likely to be present in relatively high numbers. *L. monocytogenes* frequently establishes itself in a harborage site on equipment and grows (increases in number) there, where both food and moisture are available. *L. monocytogenes* organisms work their way out of the harborage site during production and contaminate food.
- *Salmonella* spp. is usually the environmental pathogen of concern for most dry (e.g., low-moisture) RTE food

environments. Equipment used in the production of dry products is rarely wet and, thus, there is no moisture to allow growth of *Salmonella* spp. As a result, *Salmonella* harborage sites are less likely to be found on equipment and are more likely to be found in the environment in locations where food particles lodge and escape a dry cleaning process. When these locations get wet, the *Salmonella* spp. grows and contaminates other areas of the facility, eventually contaminating food-contact surfaces and food. Nevertheless, sampling food-contact surfaces (e.g., filler hoppers, conveyors, valves, sifter cuffs) can be useful, as can sampling residues such as sifter tailings and product scrapings.

Examples of appropriate non-food-contact surfaces that could be monitored include exteriors of equipment, equipment supports, control panels, door handles, floors, drains, refrigeration units, ducts, overhead structures, cleaning tools, motor housings and vacuum canisters. Standing water in production areas and areas that have become wet and then have dried are also appropriate places to monitor. Testing non-food-contact surfaces for *L. monocytogenes* or *Listeria* spp. is a commonly recommended verification measure for facilities producing refrigerated or frozen RTE foods (Ref. 57) (Ref. 16) (Ref. 17) and can detect *L. monocytogenes* that is brought into the plant by people or objects. Corrective actions can prevent transferring the organisms to a food-contact surface (where they can contaminate food) or from establishing a harborage that can serve as a source of contamination. Recommendations for routine environmental monitoring for *Salmonella* spp. in low moisture food environments generally target non-food-contact surfaces because equipment used in the production of low-moisture foods where *Salmonella* spp. is the environmental pathogen of concern does not have the moisture to allow *Salmonella* spp. to grow and, thus, sampling non-food-contact surfaces for *Salmonella* spp. may be more effective in finding the organism than sampling food-contact surfaces. Scrapings or residues that accumulate under or above equipment are more useful samples than sponges or swabs of food-contact surfaces (Ref. 76).

As discussed in section I.E.2 of this Appendix with respect to indicator organisms, a facility that finds an indicator organism or an environmental pathogen during environmental monitoring typically conducts microbial testing of surrounding surfaces and areas to determine the potential source of the contamination, cleans and sanitizes the contaminated surfaces and areas, and conducts additional microbial testing to determine whether the contamination has been eliminated. If the organism is found on retest, the facility generally takes more aggressive corrective actions (e.g., more intensified cleaning and sanitizing, including dismantling equipment, scrubbing surfaces, and heat-treating equipment parts) (Ref. 17).

The adequacy of a corrective action in response to environmental monitoring depends in part on the following factors related to the risk presented in a particular situation:

- Whether the environmental contamination is on a food-contact surface or a non-food-contact surface;
- The proximity of a contaminated non-food-contact surface to one or more food-contact surfaces;
- Whether there have been previous positives on the specific food-contact surface or non-food-contact surface or in the same area; and
- The environmental monitoring strategy for the type of food, and whether the food supports growth of the environmental pathogen (see the discussion of the relevance of whether a food supports the growth of an environmental pathogen in section I.D.4 of this Appendix).

If an environmental pathogen or an appropriate indicator organism (the test organism) is detected in the environment, corrective actions are taken to eliminate the organism, including finding a harborage site if one exists (Ref. 17) (Ref. 18) (Ref. 59). Otherwise, the presence of the environmental pathogen could result in contamination of food-contact surfaces or food. The presence of the indicator organism suggests that conditions exist in which the environmental pathogen may be present and could result in contamination of food-contact surfaces or food. Corrective actions are taken for every finding of an environmental pathogen or indicator organism in the environment to prevent contamination of food-contact surfaces or food.

Sampling and microbial testing from surfaces surrounding the area where the test organism was found are necessary to determine whether the test organism is more widely distributed than on the original surface where it was found and to help find the source of contamination if other sites are involved. Cleaning and sanitizing the contaminated surfaces and surrounding areas are necessary to eliminate the test organism that was found there. Additional sampling and microbial testing are necessary to determine the efficacy of cleaning and sanitizing. For example, detection of the test organism after cleaning and sanitizing indicates that the initial cleaning was not effective, and additional, more intensified cleaning and sanitizing, or other actions may be needed, including dismantling equipment, scrubbing surfaces, and heat-treating equipment parts (Ref. 17). Examples of additional corrective actions that could be taken include reinforcing employee hygiene practices and traffic patterns; repairing damaged floors; eliminating damp insulation, water leaks, and sources of standing water; replacing equipment parts that can become harborage sites (e.g., hollow conveyor rollers and equipment framework), and repairing roof leaks (Ref. 17) (Ref. 59). The types of corrective actions would depend on the type of food, the facility and the environmental pathogen.

The finding of a test organism on a food-contact surface usually represents transient contamination rather than a harborage site (Ref. 18). However, finding the test organism on multiple surfaces in the same area, or continuing to find the test organism after cleaning and sanitizing the surfaces where it was found, suggests a harborage site for the test organism. Mapping the location of contamination sites, whether the harborage site is on equipment or in the environment, can help locate the source of the harborage site or identify additional locations to sample (Ref. 59).

The types of facilities that may conduct environmental monitoring and that could implement corrective actions on finding the test organism in the facility are quite diverse, and include facilities producing low-moisture products such as cereals, chocolate and dried milk powders and facilities producing a variety of RTE refrigerated products such as deli salads, cheeses and bagged salads. The number of sites appropriate for testing and the applicable cleaning and sanitizing procedures would depend on the facility and the equipment.

Corrective actions may involve investigative procedures when the initial corrective actions have not been successful in eliminating the environmental pathogen or indicator organism. One example of an investigative procedure is taking samples from food-contact surfaces and/or product from the processing line at multiple times during the day while the equipment is operating and producing product (Ref. 17). Another example of an investigative procedure is conducting molecular strain typing such as pulsed-field gel electrophoresis (PFGE), ribotyping, or polymerase chain reaction (PCR) analysis to determine if particular strains are persistent in the environment (Ref. 19) (Ref. 78) (Ref. 54) (Ref. 52) (Ref. 53) (Ref. 79). Molecular strain typing can indicate that strains isolated at different points in time have the same molecular ''fingerprint,'' suggesting a common source, and perhaps a harborage site, that has not been detected based on the results of routine environmental monitoring (Ref. 52) (Ref. 53). Molecular strain typing can also be used when trying to determine if a specific ingredient is the source of contamination (Ref. 78).

If environmental monitoring identifies the presence of an environmental pathogen or appropriate indicator organism, the facility may conduct finished product testing. As discussed in section I.F of this Appendix, there are shortcomings for microbiological testing of food for process control purposes. Testing cannot ensure the absence of a hazard, particularly when the hazard is present at very low levels and is not uniformly distributed. If an environmental pathogen is detected on a food-contact surface, finished product testing would be appropriate only to confirm actual contamination or assess the extent of contamination, because negative findings from product testing could not adequately assure that the environmental pathogen is not present in food exposed to the food-contact surface. If a facility detects an environmental pathogen on a food-contact surface, the facility should presume that the environmental pathogen is in the food.

Finished product testing could be appropriate if an environmental pathogen is detected on a non-food-contact surface, such as on the exterior of equipment, on a floor or in a drain. The potential for food to be contaminated directly from contamination in

or on a non-food-contact surface is generally low, but transfer from non-food-contact surfaces to food-contact surfaces can occur. Finished product testing can provide useful information on the overall risk of a food when pathogens have been detected in the environment. In general, finished product testing is most appropriate when an indicator organism, rather than an environmental pathogen, is detected on a food-contact surface.

The results of finished product testing can be used in combination with the results of environmental monitoring and corrective actions to help ensure that the food released into commerce is not adulterated. For example, if a facility with an aggressive environmental monitoring program detects an indicator organism on a food-contact surface, it may use information such as the following in determining whether to release product into commerce:

- The number and location of positive sample findings, including from the original sampling and from additional/follow-up testing of areas surrounding the site of the original finding;
- The root cause analysis of the source of the contamination;
- Information on the efficacy of the facility's corrective actions (including the results of additional follow-up sampling);
- Information obtained from any finished product testing, taking into consideration the statistical confidence associated with the results.

F. The Role of Finished Product Testing in Verifying the Implementation and Effectiveness of Preventive Controls

The utility of finished product testing for verification depends on many factors that industry currently considers in determining whether finished product testing is an appropriate approach to reducing the risk that contaminated food would reach the consumer and cause foodborne illness. The first such consideration is the nature of the hazard and whether there is evidence of adverse health consequences from that hazard in the food being produced or in a similar food. If the hazard were to be present in the food, how likely is it that illness will occur and how serious would the consequences be? The more likely and severe the illness, the greater the frequency of conducting verification testing. For example, *Salmonella* spp. is a hazard that if consumed could cause serious illness, particularly in children and the elderly. In contrast, in situations where unlawful pesticide residues are considered reasonably likely to occur, the presence of a pesticide residue that is not approved for a specific commodity but that is within the tolerance approved for other commodities, while deemed unsafe as a matter of law, may not actually result in illness. Thus, a firm is more likely to conduct finished product testing to verify *Salmonella* spp. control than to verify control of pesticides.

Another consideration in determining whether finished product testing is appropriate is the intended consumer of the food. The greater the sensitivity of the intended consumer (as would be the case, for example, for a medical food provided to hospitalized adults), the greater the likelihood that finished product testing would be used as a verification activity.

Another consideration in determining whether finished product testing is appropriate is the impact of the food on the contaminant. For example, depending on the food, pathogens may survive in food, increase in number, or die off. Finished product testing generally is not conducted if pathogens that may be in a food would die off in a relatively short period of time (e.g., before the food reaches the consumer). For example, many salad dressings have antimicrobial properties, including low pH, high acidity, and preservatives, that are lethal for pathogens such as *Salmonella* spp. or *E. coli* O157:H7. If a facility has validated the lethality of the formulation of the salad dressing, the facility is unlikely to conduct finished product testing for pathogens such as *Salmonella* spp. or *E. coli* O157:H7, as this would not be an effective use of resources, particularly if proper formulation of the food is verified during production. In contrast, verification testing is more likely in food where pathogens can survive in a food, particularly where pathogens may grow in a food.

Another consideration in determining whether finished product testing is appropriate is the intended use of the food. For example, consumers cook many foods, e.g., dried pasta, cake mixes, and most frozen vegetables, thereby reducing pathogens. A facility should not rely on the consumer to eliminate hazards that can be prevented. However, there is little benefit in testing a food that is normally consumed following a step that can be relied on to inactivate the hazard. It is important to validate that the instructions provided to the consumer adequately reduce the pathogen of concern. It is also important to understand the customary use of the food, which may include uses that do not include the hazard reduction step. For example, dried soup mixes may be mixed with sour cream to make a dip, without the pathogen inactivation step that occurs when boiling the soup mix with water. If *Salmonella* spp. may be present in an ingredient for the soup mix, e.g., dried parsley or black pepper, and neither the supplier nor the facility treats the ingredient or the soup mix in a way that significantly reduces *Salmonella* spp., then finished product testing for *Salmonella* spp. would be warranted. Likewise, frozen peas and corn may be added to fresh salads, deli-type salads, or salsas without a pathogen inactivation step; finished product testing for *L. monocytogenes* could be warranted for these foods where this is a likely use.

Another consideration in determining whether finished product testing is appropriate is the type of controls the supplier has implemented to minimize the potential for the hazard to be present, e.g., whether the supplier uses a kill step for a pathogen or has other programs in place that will adequately reduce the hazard. A facility generally is more likely to conduct finished product testing when the supplier does not have a program that can ensure the hazard has been adequately reduced in the ingredient supplied. Another consideration is the verification procedures that are in place at the supplier and at the receiving facility. If the supplier has a well-executed control program, including a supplier approval and verification program that has been verified through audits to adequately reduce the hazard, the receiving facility performs periodic verification testing of the ingredient provided by the supplier, and the supplier has a good compliance history, the frequency of finished product verification testing by the receiving facility is low, particularly if the receiving facility has a process that further reduces the hazard. However, if the ingredient is associated with a hazard and the processes used by the supplier and the receiving facility will not significantly minimize it, or if a facility is using a new supplier, the frequency of finished product verification testing increases.

One of the most important considerations in determining whether finished product testing is appropriate is the effect of processing on the hazard. The frequency of finished product testing generally is low when a manufacturing process significantly minimize the hazard (e.g., a 5-log reduction of a pathogen) and procedures are in place to prevent recontamination after that process; the frequency of finished product testing increases when a manufacturing process does not significantly minimize the hazard (e.g., 1- or 2-log reduction of a pathogen). For example, testing is not common for bagged spinach that is irradiated to provide a 5-log reduction of *Salmonella* spp. and *E. coli* O157:H7; finished product verification testing would be more common if the only pathogen reduction step is washing the spinach leaves in chlorinated water. Likewise, FDA noted in the preamble to the juice HACCP regulation that it was not requiring end product verification testing for juice treated to achieve a 5-log reduction in a target pathogen because the post-treatment level of microorganisms would be too low to be detected using reasonable sampling and analytical methods (68 FR 6138 at 6174).

Another important consideration in determining whether finished product testing is appropriate is whether a hazard can be reintroduced into a food that has been treated to significantly minimize the hazard, either through exposure to the environment or by the addition of an ingredient after a treatment to significantly minimize a hazard. For example, verification testing is not common if a lethal treatment for a pathogen is given to food in its final package (such as a marinara sauce heated in the jar or hot-filled into the jar) but would be more common if food exposed to the environment, such as a cold gazpacho filled into a container. Likewise, verification testing generally is more frequent for foods given significant handling before packaging, regardless of whether they have previously received a treatment that would significantly minimize a hazard, if they will be consumed without a treatment lethal for pathogens that can be introduced during handling (e.g., *L. monocytogenes* or *Salmonella* spp. from the environment; pathogens such as *Staphylococcus aureus* or *Salmonella* spp. from food handlers). Verification testing also

would be more frequent if an ingredient that has potential to be contaminated with a pathogen is added to a food that was previously treated to significantly minimize a hazard (e.g., adding seasonings to chips or crackers after frying or baking) than if all ingredients are added before the treatment.

In assessing whether to conduct verification testing and determine the frequency of that testing, a facility generally considers the impact of all the preventive control measures applied in producing the food, because multiple control measures provide greater assurance that a hazard is being controlled. For example, the frequency or finished product verification testing generally could be lower for a food that is subject to supplier controls that include audits and certificates of analysis (COAs); that contains ingredients that have been subjected to ingredient testing; that is produced under well-implemented sanitation controls that are verified through a robust environmental monitoring program; and that is treated using a validated process that significantly minimizes the hazard than for a food that is not subject to all these controls. Finished product testing generally is more frequent during initial production cycles until there is an accumulation of historical data (e.g., finished product test results that are negative for the hazard) to confirm the adequacy of preventive controls. Once this history has been established, the frequency of testing generally is reduced to that needed to provide ongoing assurance that the preventive controls continue to be effective and to signal a possible loss of control, as discussed further immediately below.

There are well-known shortcomings of product testing, especially microbiological testing, for process control purposes, and it is generally recognized that testing cannot ensure the absence of a hazard, particularly when the hazard is present at very low levels and is not uniformly distributed (Ref. 61) (Ref. 80)). Moreover, the number of samples used for routine testing often is statistically inadequate to provide confidence in the safety of an individual lot in the absence of additional information about adherence to validated control measures. This is illustrated below for *Salmonella* spp.

FDA's Investigations Operations Manual (IOM) (Ref. 81) and Bacteriological Analytical Manual, BAM, (Ref. 82) provide sampling plans to determine the presence of *Salmonella* in processed foods intended for human consumption. The stringency of the sampling plan is based on the category of the food. Category III foods are those that would normally be subject to a process lethal to *Salmonella* spp. between the time of sampling and consumption (e.g., macaroni and noodle products, frozen and dried vegetables, frozen dinners, food chemicals). Category II foods are those that would not normally be subject to a process lethal to *Salmonella* spp. between the time of sampling and consumption (e.g., fluid milk products, cheeses, nut products, spices, chocolate, prepared salads, ready-to-eat sandwiches). Category I foods are Category II foods intended for consumption by the aged, the infirm, and infants (e.g., foods produced for a hospital). FDA takes 15 samples for Category III foods, 30 for Category II foods, and 60 for Category I foods and tests a 25 g subsample (analytical unit) from each sample. To reduce the analytical workload, the analytical units may be composited (Ref. 83), with the maximum size of a composite unit being 375 g (15 analytical units). This composite is tested in its entirety for *Salmonella* spp. The probability of detecting *Salmonella* spp. for various contamination rates under the three IOM Salmonella sampling plans is shown in Table 1. (Probability of Detecting *Salmonella*.)

TABLE 1—PROBABILITY OF DETECTING *Salmonella* SPP. IN LOTS AT VARIOUS CONTAMINATION RATES UNDER THE THREE DIFFERENT IOM *Salmonella* SAMPLING PLANS (LEFT) AND THE EXPECTED NUMBER OF POSITIVE COMPOSITE SAMPLES USING WEEKLY TESTING FOR 1 YEAR UNDER THE IOM *Salmonella* SAMPLING PLANS (RIGHT)

		Probability of detecting *Salmonella* spp. in a lot (percent)			Expected # of positive composites per year (weekly testing)		
Contamination Rate	CFU/g or CFU/kg	N=15*	n=30*	n=60*	n=15*	n=30*	n=60*
1 in 10	1/250g	79	96	>99	40	81	162
1 in 30	1/750g	40	64	87	20	41	82
1 in 100	1/2.5kg	14	26	45	7	15	29
1 in 300	1/7.5kg	4.9	10	18	2.5	5	10
1 in 1000	1/25kg	1.5	3	5.8	0.8	1.5	3
1 in 3000	1/75kg	0.5	1	2	0.3	0.5	1

* In the table, "n" is the number of subsamples (which are composited in groups of 15 for analysis).

The probability of detecting Salmonella spp. increases as the defect rate increases. For example, when 15 samples are tested, the probability of detecting Salmonella spp. is 14 percent when the contamination rate is 1 in 100, but 79 percent when the contamination rate is 1 in 10. For a given contamination rate, the probability of detecting Salmonella spp. increases with the number of samples tested. For example, at a contamination rate of 1 in 30, the probability of detecting Salmonella spp. increases from 40 percent if 15 samples are tested to 87 percent if 60 samples are tested.

Table 1 shows that it is clearly not feasible to attempt to identify low levels of contamination in an individual lot based on the IOM *Salmonella* sampling plan. If the contamination levels are high and 1 in 10 products are contaminated, then Salmonella spp. would be detected in the lot greater than 99 percent, 96 percent, and 79 percent of the time using Category I, II, and III testing, respectively. If the frequency of contaminated units is reduced to 1 in 300, then the contaminated lot would only be detected 18 percent, 10 percent, and 4.9 percent of the time using Category I, II, and III testing, respectively. At a very low frequency of contamination (e.g., 1 in 1000) even with testing 60 samples the contaminated lot would be detected only about 6 percent of the time.

Periodic testing for trend analysis and statistical process control, however, does provide information to assess whether processes (or the food safety system) are under control over time. Data collected from multiple lots of product produced over days, months or years are used to establish a baseline for the level of control that can be attained under a functioning food safety system and to verify the system is in control or to indicate loss of control. In addition to showing the probability of detecting contamination in a lot of product for a given contamination rate, Table 1 also shows the value of periodic testing when contamination levels are low. Even though a product with 1 in 300 contaminated units is unlikely to be rejected when sampling a single lot at the Category III sampling schedule (i.e., 4.9 percent of the time), testing of finished products with this level of contamination on a weekly basis would be expected to find 2.5 positive composite samples per year. Similarly, if the background contamination rate is thought to be near 1 in 1000 but periodic testing using the Category III schedule has found 3 positives in the last year, then it seems clear that the actual frequency of contaminated units is closer to 1 in 300. Periodic testing according to the Category I *Salmonella* plan has the potential to detect situations where the contamination rates are as low as 1 in 1000. If 60 samples of a food are collected weekly, then 3,120 samples would be collected over the course of a year. Compositing these 3,120 samples into 375g analytical units would reduce the number of analytical tests to 208 (4 tests per week). If 30 samples are collected weekly, and composited, there would be 104 tests annually, or two each week. At the 1 in 1000 contamination rate there would be a greater than 95 percent confidence in seeing one or more positive tests during the year for testing composites from either 60 or 30 samples weekly. At higher rates of contamination, more positives would be detected.

There can be significant benefits to a facility testing finished products over time for process control. First, if a lot of product tests positive for a hazard, that lot of product can be disposed of such that the consumer is not exposed to the hazard (i.e., the product can be destroyed, reprocessed, or diverted to another use, as appropriate). If the testing involves enumeration of an indicator organism, it may even be possible to detect a trend toward loss of control before exceeding the criterion that separates acceptable from unacceptable. The process can be adjusted before there is a need to dispose of product. Second, the detection of loss of control, or potential loss of control, e.g., an unusual number of positives in a given period of time, allows a facility to evaluate and modify its processes, procedures, and food safety plan as appropriate to prevent loss of control in the future. In fact, the nature of the trends can provide information useful in determining the root cause of the problem (Ref. 61). A third benefit to ongoing verification testing is the accumulation of data that can help bracket any problem that occurs. For products in which there are large production runs without intervening sanitation cycles, this may provide data that can be used in conjunction with other information to limit the scope of a recall. A fourth benefit may be in detection of a problem associated with an ingredient supplier that results in changes to a supplier's processes, procedures, or food safety plan. For example, a positive in finished product due to routine verification testing was responsible for determining that hydrolyzed vegetable protein was contaminated with *Salmonella* spp., resulting in over 177 products being recalled (Ref. 84) and a recognition of the need for enhanced preventive controls for the production of this ingredient (Ref. 27). Industry commonly uses finished product testing to verify preventive controls used by the facility and by the facility's suppliers. Additionally, it is common for customers to require suppliers to conduct testing of products and ingredients being provided.

G. Metrics for Microbiological Risk Management

Recently there has been much attention paid to microbiological risk management metrics for verifying that food safety systems achieve a specified level of public health control, e.g., the Appropriate Level of Protection (ALOP), for microbial hazards. Microbiological risk management metrics are fully discussed in Annex II of the Codex ''Principles and Guidelines for the Conduct of Microbiological Risk Management (MRM)'' (Ref. 85). These metrics include traditional metrics such as microbiological criteria, process criteria, and product criteria and emerging metrics such as food safety objectives (FSO), performance objectives and performance criteria. Of particular relevance are performance objectives and performance criteria. A performance objective is the maximum frequency and/or concentration of a microbiological hazard in a food at a specified step in the food chain before the time of consumption that provides or contributes to an FSO or ALOP, as applicable (Ref. 86). A performance criterion is the effect in frequency and/or concentration of a hazard in a food that must be achieved by the application of one or more control measures to provide or contribute to a performance objective or an FSO (Ref. 86). FDA established a performance criterion (or performance standard) when we required that processors of juice products apply a control measure that will consistently produce, at a minimum, a 5-log reduction for the most resistant microorganism of public health significance (§ 120.24). Section 104 of FSMA (Performance Standards) requires the Secretary to determine the most significant foodborne contaminants and issue contaminant-specific and science-based guidance documents, including guidance documents regarding action levels, or regulations for products or product classes. The proposed rule that is the subject of this document would not establish criteria or metrics for verifying that preventive controls in food safety plans achieve a specified level of public health control in this proposed rule. However, FDA will give consideration to appropriate microbiological risk management metrics in the future.

II. The Role of Supplier Approval and Verification Programs in a Food Safety System

A food can become contaminated through the use of contaminated raw materials or ingredients. In the past several years, thousands of food products have been recalled as a result of contamination of raw materials or ingredients with pathogens such as *Salmonella* spp. and *E. coli* O157:H7. The ingredients included peanut-derived ingredients (Ref. 26) (Ref. 35), pistachio-derived ingredients (Ref. 87), instant nonfat dried milk, whey protein, fruit stabilizers (Ref. 88) (Ref. 89) (Ref. 33) and hydrolyzed vegetable protein (Ref. 90).

The incident involving *Salmonella* spp. in hydrolyzed vegetable protein illustrates the impact one supplier can have on the food industry (Ref. 13). A receiving facility (manufacturer) detected *Salmonella* spp. in verification testing of finished product. In determining the source of the contamination, the manufacturer detected *Salmonella* spp. in samples of a hydrolyzed vegetable protein ingredient and reported the finding through FDA's RFR. After FDA determined that the ingredient was a reportable food, FDA requested that the supplier notify the immediate subsequent recipients of the reported hydrolyzed vegetable protein ingredient. Over one thousand reportable food reports were submitted to FDA from numerous companies concerning the potentially contaminated hydrolyzed vegetable protein or products made with the hydrolyzed vegetable protein. The hydrolyzed vegetable protein recall involved at least eleven different commodity categories and 177 products, showing the magnitude of this contamination event originating from one supplier (Ref. 13).

FDA recently reviewed CGMP-related food recall information from 2008–2009 to assess potential root causes for the contamination events. We determined that 36.9 percent of the 960 Class I and Class II recalls were directly linked to lack of supplier controls (Ref. 91). The recent large recalls of foods containing contaminated or potentially contaminated ingredients have focused attention on supplier approval and verification programs intended to help a manufacturer/processor prevent the introduction of a contaminated raw material or other ingredient into another product (Ref. 35) (Ref. 84) (Ref. 89). The application of preventive approaches by the entire supply chain (including ingredient vendors, brokers and other suppliers and, ultimately, the manufacturer of a food product) is recognized as essential to effective food safety management (Ref. 92).

The development of a supplier approval and verification program is part of a preventive approach. Because many facilities acting as suppliers procure their raw materials and ingredients from other suppliers, there is often a chain of suppliers before a raw material or other ingredient reaches the manufacturer/processor. To ensure safe food and minimize the potential for contaminated food to reach the consumer, each supplier in the chain must implement preventive controls appropriate to the food and operation for hazards reasonably likely to occur in the raw material or other ingredient. A facility receiving raw materials or ingredients from a supplier must ensure that the supplier (or a supplier to the supplier) has implemented preventive controls to significantly minimize or prevent hazards that the receiving facility has identified as reasonably likely to occur in that raw material or other ingredient unless the receiving facility will itself control the identified hazard.

A supplier approval and verification program is a means of ensuring that raw materials and ingredients are procured from those suppliers that can meet company specifications and have appropriate programs in place, including those related to the safety of the raw materials and ingredients. A supplier approval program can ensure a methodical approach to identifying such suppliers. A supplier verification program provides initial and ongoing assurance that suppliers are complying with practices to achieve adequate control of hazards in raw materials or ingredients.

Supplier approval and verification is widely accepted in the domestic and international food safety community. The NACMCF HACCP guidelines describe Supplier Control as one of the common prerequisite programs for the safe production of food products and recommend that each facility should ensure that its suppliers have in place effective GMP and food safety programs (Ref. 1). The American Spice Trade Association advocates that spice manufacturers establish robust supplier prerequisite programs to evaluate and approve suppliers (Ref. 93). The Grocery Manufacturers Association's (GMA's) Food Supply Chain Handbook, developed for ingredient suppliers to the food industry, recommends that all suppliers in the food chain consider approval programs for their own suppliers; such supplier approval programs consist of a collection of appropriate programs, specifications,

policies, and procedures (Ref. 92). GMA recommends a number of verification activities that suppliers can take in its Food Supply Chain Handbook, including self-auditing, third-party auditing and product testing. GMA's handbook also references verification activities that a supplier's customers might take, including second-party audits (done by an employee of the customer) or third-party (independent) audits (conducted by persons who do not work for either the supplier or the customer). Codex specifies that no raw material or ingredient should be accepted by an establishment if it is known to contain parasites, undesirable microorganisms, pesticides, veterinary drugs or toxic, decomposed or extraneous substances which would not be reduced to an acceptable level by normal sorting and/or processing (Ref. 94). Codex also specifies that, where appropriate, specifications for raw materials should be identified and applied and that, where necessary, laboratory tests should be made to establish fitness for use (Ref. 94).

Supplier verification activities include auditing a supplier to ensure the supplier is complying with applicable food safety requirements, such as CGMP requirements of current part 110. Audit activities may include a range of activities, such as on-site examinations of establishments, review of records, review of quality assurance systems, and examination or laboratory testing of product samples (Ref. 95). Other supplier verification activities include conducting testing or requiring supplier COAs, review of food safety plans and records, or combinations of activities such as audits and periodic testing.

An increasing number of establishments that sell foods to the public, such as retailers and food service providers, are independently requiring, as a condition of doing business, that their suppliers, both foreign and domestic, become certified as meeting safety (as well as other) standards. In addition, domestic and foreign suppliers (such as producers, co-manufacturers, or re-packers) are increasingly looking to third-party certification programs to assist them in meeting U.S. regulatory requirements (Ref. 95). There are many established third-party certification programs designed for various reasons that are currently being used by industry. Many third party audit schemes used to assess the industry's food safety management systems incorporate requirements for manufacturers and processors to establish supplier approval programs.

The GFSI was established in 2000 to drive continuous improvement in food safety management systems to ensure confidence in the delivery of safe food to consumers worldwide. Their objectives include reducing risk by delivering equivalence and convergence between effective food safety management systems and managing cost in the global food system by eliminating redundancy and improving operational efficiency (Ref. 96). GFSI has developed a guidance document as a tool that fulfills the GFSI objectives of determining equivalency between food safety management systems (Ref. 96). The document is not a food safety standard, but rather specifies a process by which food safety schemes may gain recognition, the requirements to be put in place for a food safety scheme seeking recognition by GFSI, and the key elements for production of safe food or feed, or for service provision (e.g., contract sanitation services or food transportation) in relation to food safety (Ref. 96). This benchmark document has provisions relevant to supplier approval and verification programs. For example, it specifies that a food safety standard must require that the organization control purchasing processes to ensure that all externally sourced materials and services that have an effect on food safety conform to requirements. It also specifies that a food safety standard must require that the organization establish, implement, and maintain procedures for the evaluation, approval and continued monitoring of suppliers that have an effect on food safety. Thus, all current GFSI-recognized schemes require supplier controls to ensure that the raw materials and ingredients that have an impact on food safety conform to specified requirements. The GFSI guidance document also requires audit scheme owners to have a clearly defined and documented audit frequency program, which must ensure a minimum audit frequency of one audit per year of an organization's facility (Ref. 96).

Because GFSI is a document that outlines elements of a food safety management system for benchmarking a variety of standards, it does not have details about how facilities should comply with the elements. This type of information is found in the food safety schemes that are the basis for certification programs. For example, the Safe Quality Food (SQF) 2000 Code, a HACCP-based supplier assurance code for the food industry, specifies that raw materials and services that impact on finished product safety be supplied by an Approved Supplier. SQF 2000 specifies that the responsibility and methods for selecting, evaluating, approving and monitoring an Approved Supplier be documented and implemented, and that a register of Approved Suppliers and records of inspections and audits of Approved Suppliers be maintained. SQF 2000 requires that the Approved Supplier Program contain, among other items, agreed specifications; methods for granting Approved Supplier status; methods and frequency of monitoring Approved Suppliers; and details of certificates of analysis if required.

According to SQF, the monitoring of Approved Suppliers is to be based on the prior good performance of a supplier and the risk level of the raw materials supplied. The monitoring and assessment of Approved Suppliers can include:

- The inspection of raw materials received;
- The provision of certificates of analysis;
- Third party certification of an Approved Supplier; or
- The completion of 2nd party supplier audits.

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. (FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. National Advisory Committee on Microbiological Criteria for Foods, ''Hazard Analysis and Critical Control Point Principles and Application Guidelines,'' *Journal of Food Protection,* 61:1246–1259, 1998.
2. Codex Alimentarius Commission, ''Principles for the Establishment and Application of Microbiological Criteria for Foods, CAC/GL 21—1997,'' 1997.
3. International Commission on Microbiological Specifications for Foods, ''Microbiological Hazards and Their Control,'' In: *Microorganisms in Foods 7. Microbiological Testing in Food Safety Management,* edited by R. B. Tompkin, L. Gram, T. A. Roberts, R. L. Buchanan, M. van Schothorst, S. Dahms, and M. B. Cole, New York, Chapter 1, pp. 1–21, Kluwer Academic/Plenum Publishers, 2002.
4. International Commission on Microbiological Specifications for Foods, ''Selection and Use of Acceptance Criteria,'' In: *Microorganisms in Foods 7. Microbiological Testing in Food Safety Management,* edited by R. B. Tompkin, L. Gram, T. A. Roberts, R. L. Buchanan, M. van Schothorst, S. Dahms, and M. B. Cole, New York, Chapter 4, pp. 79–97, Kluwer Academic/Plenum Publishers, 2002.
5. FDA, ''Guidance for Industry: Measures to Address the Risk for Contamination by Salmonella Species in Food Containing a Peanut-Derived Product as an Ingredient,'' 2009.
6. FDA, ''Guidance for Industry: Measures to Address the Risk for Contamination by *Salmonella* Species in Food Containing a Pistachio-Derived Product as an Ingredient,'' 2011.
7. CDC, ''General Information. *Escherichia coli* (*E. coli*),'' (*http://www.cdc.gov/ecoli/general/index.html*), July 17, 2012. Accessed and printed on July 27, 2012.
8. Scott, V. N., C. Yuhuan, T. A. Freier, J. Kuehm, M. Moorman, J. Meyer, T. Morille-Hinds, L. Post, L. Smoot, S. Hood, J. Shebuski, and J. Banks, ''Control of *Salmonella* in Low-Moisture Foods I: Minimizing Entry of *Salmonella* into a Processing Facility,'' *Food Protection Trends,* 29:342–353, 2009.
9. Chen, Y., V. N. Scott, T. A. Freier, J. Kuehm, M. Moorman, J. Meyer, T. Morille-Hinds, L. Post, L. Smoot, S. Hood, J. Shebuski, and J. Banks, ''Control of *Salmonella* in Low-Moisture Foods II: Hygiene Practices to Minimize *Salmonella* Contamination and Growth,'' *Food Protection Trends,* 29:435–445, 2009.
10. California Department of Public Health, ''Union International Food Company Recall Widened Again,'' (*http://www.cdph.ca.gov/Pages/NR2009–23.aspx*), April 4, 2009. Accessed and printed on September 6, 2011.
11. Gabis, D. A., R. S. Flowers, D. Evanson, and R. E. Faust, ''A Survey of 18 Dry

Product Processing Plant Environments for *Salmonella, Listeria* and *Yersinia,'' Journal of Food Protection,* 52:122–124, 1989.
12. Vij, V., E. Ailes, C. Wolyniak, F. J. Angulo, and K. C. Klontz, ''Recalls of Spices Due to Bacterial Contamination Monitored by the U.S. Food and Drug Administration: The Predominance of Salmonellae,'' *Journal of Food Protection,* 69:233–237, 2006.
13. FDA, ''FDA Foods Program, The Reportable Food Registry: A New Approach to Targeting Inspection Resources and Identifying Patterns of Adulteration. First Annual Report: September 8, 2009–September 7, 2010,'' (*http://www.fda.gov/downloads/Food/FoodSafety/FoodSafetyPrograms/RFR/UCM240647.pdf*), January, 2011. Accessed and printed on August 29, 2011.
14. FDA and USDA, ''*Listeria monocytogenes* Risk Assessment: VII. Interpretation and Conclusions,'' (*http://www.fda.gov/Food/ScienceResearch/ResearchAreas/RiskAssessmentSafetyAssessment/ucm185289.htm*), September, 2003. Accessed and printed on October 17, 2011.
15. Food and Agriculture Organization and World Health Organization, ''Risk Assessment of *Listeria monocytogenes* in Ready-to-Eat Foods, Technical Report,'' 2004.
16. International Commission on Microbiological Specifications for Foods, ''Sampling to Assess Control of the Environment,'' In: *Microorganisms in Foods 7. Microbiological Testing in Food Safety Management,* edited by R. B. Tompkin, L. Gram, T. A. Roberts, R. L. Buchanan, M. van Schothorst, S. Dahms, and M. B. Cole, New York, Chapter 11, pp. 199–224, Kluwer Academic/Plenum Publishers, 2002.
17. Tompkin, R. B., V. N. Scott, D. T. Bernard, W. H. Sveum, and K. Sullivan Gombas, ''Guidelines to Prevent Post-Processing Contamination from *Listeria monocytogenes,'' Dairy, Food and Environmental Sanitation,* 19:551–562, 1999.
18. Tompkin, R. B., ''Control of *Listeria monocytogenes* in the Food-Processing Environment,'' *Journal of Food Protection,* 65:709–725, 2002.
19. Carpentier, B., and O. Cerf, ''Review: Persistence of *Listeria monocytogenes* in Food Industry Equipment and Premises,'' *International Journal of Food Microbiology,* 145:1–8, 2011.
20. Breuer, T., ''CDC Investigations: The May 1998 Outbreak of *Salmonella* Agona Linked to Cereal,'' *Cereal Foods World,* 44:185–186, 1999.
21. CDC, ''EPI–AID 98–60 Trip-Report: Multistate Outbreak of *Salmonella* Agona Infection Linked to Consumption of Oat Cereal, April–June 1997,'' 1999.
22. CDC, ''Foodborne Outbreak Online Database (FOOD). Search Results Highlighted for 1998 *Salmonella* Agona Outbreak in Dry Cereal,'' 2011. Accessed and printed on October 21, 2011.
23. CDC, ''Investigation of Outbreak of Infections Caused by *Salmonella* Agona,'' (*http://www.cdc.gov/salmonella/agona/*), May 13, 2008. Accessed and printed on September 9, 2011.
24. CDC, ''Foodborne Outbreak Online Database (FOOD). Search Results Highlighted for 2006–2007 *Salmonella* Tennessee Outbreak in Peanut Butter,'' 2011. Accessed and printed on October 18, 2011.
25. CDC, ''Multistate Outbreak of *Salmonella* Serotype Tennessee Infections Associated with Peanut Butter—United States, 2006–2007,'' *MMWR,* 56:521–524, 2007.
26. FDA, ''Peanut Products Recall,'' (*http://www.fda.gov/Safety/Recalls/MajorProductRecalls/Peanut/default.htm*), June 18, 2009. Accessed and printed on September 9, 2011.
27. FDA, ''Hydrolyzed Vegetable Protein Product Recalls,'' (*http://www.fda.gov/Safety/Recalls/MajorProductRecalls/HVP/default.htm*), December 21, 2011. Accessed and printed on July 27, 2012.
28. CDC, ''Multistate Outbreak of *Salmonella* Infections Associated with Peanut Butter and Peanut Butter-Containing Products—United States, 2008–2009,'' *MMWR,* 58:85–90, 2009.
29. Cavallaro, E., K. Date, C. Medus, S. Meyer, B. Miller, C. Kim, S. Nowicki, S. Cosgrove, D. Sweat, P. Quyen, J. Flint, E. R. Daly, J. Adams, E. Hyytia-Trees, P. Gerner-Smidt, R. M. Hoekstra, C. Schwensohn, A. Langer, S. V. Sodha, M. C. Rogers, F. J. Angulo, R. V. Tauxe, I. T. Williams, and C. Barton Behravesh, ''*Salmonella* Typhimurium Infections Associated with Peanut Products,'' *New England Journal of Medicine,* 365:601–610, 2011.
30. FDA, ''Amended Form 483 (Inspectional Observations) for Peanut Corporation of America, Blakely, GA, 02/05/2009,'' (*http://www.fda.gov/downloads/AboutFDA/CentersOffices/ORA/ORAElectronicReadingRoom/UCM109834.pdf*), February 5, 2009. Accessed and printed on October 19, 2011.
31. FDA, ''Form 483 (Inspectional Observations) for Peanut Corporation of America, Plainview, TX, 02/26/2009,'' (*http://www.fda.gov/downloads/AboutFDA/CentersOffices/ORA/ORAElectronicReadingRoom/UCM114852.pdf*), February 26, 2009. Accessed and printed on October 17, 2011.
32. CDC, ''Foodborne Outbreak Online Database (FOOD). Search Results Highlighted for 2008 *Salmonella* Typhimurium Outbreak in Peanut Butter and Peanut Paste,'' 2011. Accessed and printed on November 23, 2011.
33. FDA, ''Company Recalls Various Products Due to Potential *Salmonella* Contamination. FDA, USDA, CDC Investigating; No Link to Human Illnesses at This Time,'' (*http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm169471.htm*), June 28, 2009. Accessed and printed on September 9, 2011.
34. FDA, ''FDA Form 483 (Inspectional Observations) for Plainview Milk Products Cooperative,'' (*http://www.fda.gov/downloads/AboutFDA/CentersOffices/ORA/ORAElectronicReadingRoom/UCM173030.pdf*), July 15, 2009. Accessed and printed on September 9, 2011.
35. FDA, ''Peanut Butter and Other Peanut Containing Products Recall List,'' (*http://www.accessdata.fda.gov/scripts/peanutbutterrecall/index.cfm*), October 28, 2009. Accessed and printed on September 9, 2011.
36. Jackson, K. A., M. Biggerstaff, M. Tobin-D'Angelo, D. Sweat, R. Klos, J. Nosari, O. Garrison, E. Boothe, L. Saathoff-Huber, L. Hainstock, and R. P. Fagan, ''Multistate Outbreak of *Listeria monocytogenes* Associated with Mexican-Style Cheese Made from Pasteurized Milk Among Pregnant, Hispanic Women,'' *Journal of Food Protection,* 74:949–953, 2011.
37. Texas Department of State Health Services, ''DSHS Orders Sangar Produce to Close, Recall Products,'' (*http://www.dshs.state.tx.us/news/releases/20101020.shtm*), October 20, 2010. Accessed and printed on September 9, 2011.
38. FDA, ''FDA Form 483 (Inspectional Observations) for Sangar Fresh Cut Produce Co., LLC,'' (*http://www.fda.gov/downloads/AboutFDA/CentersOffices/ORA/ORAElectronicReadingRoom/UCM232412.pdf*), October 26, 2010. Accessed and printed on September 9, 2011.
39. FDA, ''FDA Lab Results Positive for *Listeria* at SanGar Fresh Produce,'' (*http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/FruitsVegetablesJuices/ucm232237.htm*), November 3, 2010. Accessed and printed on September 9, 2011.
40. FDA, ''Information on the Recalled Jensen Farms Whole Cantaloupes,'' (http://www.fda.gov/Food/FoodSafety/CORENetwork/ucm272372.htm), January 9, 2012. Accessed and printed on July 19, 2012.
41. CDC, ''Multistate Outbreak of Listeriosis Linked to Whole Cantaloupes from Jensen Farms, Colorado,'' (*http://www.cdc.gov/listeria/outbreaks/cantaloupes-jensen-farms/*), December 8, 2011. Accessed and printed on July 27, 2012.
42. FDA and USDA, ''*Listeria monocytogenes* Risk Assessment: II. Hazard Identification,'' (*http://www.fda.gov/Food/ScienceResearch/ResearchAreas/RiskAssessmentSafetyAssessment/ucm183981.htm*), September, 2003. Accessed and printed on October 20, 2011.
43. Lyytikäinen, O., T. Autio, R. Maijala, P. Ruutu, T. Honkanen-Buzalski, M. Miettinen, M. Hatakka, J. Mikkola, V. J. Anttila, T. Johansson, L. Rantala, T. Aalto, H. Korkeala, and A. Siitonen, ''An Outbreak of *Listeria monocytogenes* Serotype 3a Infections from Butter in Finland,'' *Journal of Infectious Diseases,* 181:1838–1841, 2000.
44. Fretz, R., J. Pichler, U. Sagel, P. Much, W. Ruppitsch, A. T. Pietzka, A. Stoeger, S.

Huhulescu, S. Heuberger, G. Appl, D. Werber, K. Stark, R. Prager, A. Flieger, R. Karpiskova, G. Pfaff, and F. Allerberger, ''Update: Multinational Listeriosis Outbreak Due to ''Quargel'', a Sour Milk Curd Cheese, Caused by Two Different *L. Monocytogenes* Serotype 1/2a Strains, 2009–2010,'' *Eurosurveillance,* 15:2, 2010.

45. FDA, ''River Ranch Recalls Products Because of Possible Health Risk,'' (*http://www.fda.gov/Safety/Recalls/ucm275854.htm*), October 13, 2011. Accessed and printed on October 26, 2011.
46. FDA, ''Taylor Farms Retail Inc. Initiates a Precautionary Recall Because of Possible Health Risk,'' (*http://www.fda.gov/Safety/Recalls/ucm276459.htm*), October 19, 2011. Accessed and printed on October 20, 2011.
47. FDA, ''Del Bueno Recalls Queso Fresco Casero Cheese Because of Possible Health Risk,'' (*http://www.fda.gov/Safety/Recalls/ucm272268.htm*), September 16, 2010. Accessed and printed on October 26, 2011.
48. FDA, ''Fine Mexican Food Products, Inc. Recalls 2.2 lb. Frozen Avocado Pulp & 3 lb. IQF Avocado Halves from Peru Because of Possible Health Risk,'' (*http://www.fda.gov/Safety/Recalls/ucm271686.htm*), September 13, 2011. Accessed and printed on November 23, 2011.
49. Cox, L. J., T. Kleiss, J. L. Cordier, C. Cordellana, P. Konkel, C. Pedrazzini, R. Beumer, and A. Siebenga, ''*Listeria* spp. in Food Processing, Non-Food and Domestic Environments,'' *Food Microbiology,* 6:49–61, 1989.
50. Nelson, J. H., ''Where Are *Listeria* Likely to be Found in Dairy Plants?'' *Dairy, Food and Environmental Sanitation,* 10:344–345, 1990.
51. Pritchard, T. J., K. J. Flanders, and C. W. Donnelly, ''Comparison of the Incidence of *Listeria* on Equipment Versus Environmental Sites Within Dairy Processing Plants,'' *International Journal of Food Microbiology,* 26:375–384, 1995.
52. Miettinen, M. K., K. J. Bjorkroth, and H. J. Korkeala, ''Characterization of *Listeria monocytogenes* from an Ice Cream Plant by Serotyping and Pulsed-Field Gel Electrophoresis,'' *International Journal of Food Microbiology,* 46:187–192, 1999.
53. Pourshaban, M., M. Gianfranceschi, A. Gattuso, F. Menconi, and P. Aureli, ''Identification of *Listeria monocytogenes* Contamination Sources in Two Fresh Sauce Production Plants by Pulsed-Field Gel Electrophoresis,'' *Food Microbiology,* 17:393–400, 2000.
54. Blatter, S., N. Giezendanner, R. Stephan, and C. Zweifel, ''Phenotypic and Molecular Typing of *Listeria monocytogenes* Isolated from the Processing Environment and Products of a Sandwich-Producing Plant,'' *Food Control,* 21:1519–1523, 2010.
55. Pappelbaum, K., K. Grif, I. Heller, R. Wuerzner, I. Hein, L. Ellerbroek, and M. Wagner, ''Monitoring Hygiene On- and At-Line Is Critical for Controlling *Listeria monocytogenes* During Produce Processing,'' *Journal of Food Protection,* 71:735–741, 2008.
56. Aguado, V., A. I. Vitas, and I. Garcia-Jalon, ''Characterization of *Listeria monocytogenes* and *Listeria innocua* from a Vegetable Processing Plant by RAPD and REA,'' *International Journal of Food Microbiology,* 90:341–347, 2004.
57. Codex Alimentarius Commission, ''Guidelines on the Application of General Principles of Food Hygiene to the Control of *Listeria monocytogenes* in Ready-to-Eat Foods, CAC/GL 61—2007,'' 2007.
58. Scott, V. N., M. Wiedmann, D. Hicks, R. Collette, M. L. Jahncke, and K. Gall, ''Guidelines for Listeria Testing of Environmental, Raw Product and Finished Product Samples in Smoked Seafood Processing Facilities,'' *Food Protection Trends,* 25:23–34, 2005.
59. Chen, Y., V. N. Scott, T. A. Freier, J. Kuehm, M. Moorman, J. Meyer, T. Morille-Hinds, L. Post, L. Smoot, S. Hood, J. Shebuski, and J. Banks, ''Control of *Salmonella* in Low-Moisture Foods III: Process Validation and Environmental Monitoring,'' *Food Protection Trends,* 29:493–508, 2009.
60. Jarl, D. L. and E. A. Arnold, ''Influence of Drying Plant Environment on Salmonellae Contamination of Dry Milk Products,'' *Journal of Food Protection,* 45:16, 1982.
61. Buchanan, R. L., ''Acquisition of Microbiological Data to Enhance Food Safety,'' *Journal of Food Protection,* 63:832–838, 2000.
62. National Advisory Committee on Microbiological Criteria for Foods, ''Response to the Questions Posed by FSIS Regarding Performance Standards with Particular Reference to Ground Beef Products,'' (*http://www.fsis.usda.gov/OPHS/NACMCF/2002/rep_stand2.pdf*), October 8, 2002. Accessed and printed on September 12, 2011.
63. Evancho, G. M., W. H. Sveum, L. J. Moberg, and J. F. Frank, ''Microbiological Monitoring of the Food Processing Environment,'' In: *Compendium of Methods for the Microbiological Examination of Foods,* edited by F. P. Downes and K. Ito, 4th edition, Washington, DC, Chapter 3, pp. 25–35, American Public Health Association, 2001.
64. FSIS, ''FSIS Compliance Guideline: Controlling *Listeria monocytogenes* in Post-Lethality Exposed Ready-to-Eat Meat and Poultry Products,'' 2012.
65. Kraft Foods, ''Re: Docket No. 2007D–0494; Draft Guidance for Industry: Control of *Listeria monocytogenes* in Refrigerated or Frozen Ready-to-Eat Foods; Availability,'' 2008.
66. Kraft Foods, ''Appendix, Comments on the FDA Guidance for Industry, Control of *Listeria monocytogenes* in Refrigerated or Frozen Ready-to-Eat Foods,'' 2008.
67. Grocery Manufacturers Association, ''Re: Docket No. 2007–D–0494: Draft Guidance for Industry: Control of *Listeria monocytogenes* in Refrigerated or Frozen Ready-to-Eat Foods; Availability,'' 2008.
68. Alliance for Listeriosis Prevention, ''Re: Docket No. 2007–D–0494: Draft Guidance for Industry: Control of *Listeria monocytogenes* in Refrigerated or Frozen Ready-to-Eat Foods; Availability,'' 2008.
69. CGMP Coalition, ''Re: Docket No. 2004N–0230; Food, Current Good Manufacturing Practice Regulations,'' 2006.
70. European Food Safety Authority, ''Scientific Opinion of BIOHAZ Panel on the Request from the Commission for Review of the Opinion on Microbiological Risks in Infant Formulae and Follow-on Formulae with Regard to *Enterobacteriaceae* As Indicators,'' *The EFSA Journal,* 444:1–14, 2007.
71. International Commission on Microbiological Specifications for Foods, ''Drying Foods for Infants and Young Children,'' In: *Microorganisms in Foods 8. Use of Data for Assessing Process Control and Product Acceptance,* edited by K. M. J. Swanson, R. L. Buchanan, M. B. Cole, J.-L. Cordier, R. S. Flowers, L. G. M. Gorris, M. H. Taniwaki, and R. B. Tompkin, New York, Chapter 25, pp. 339–348, Springer, 2011.
72. International Commission on Microbiological Specifications for Foods, ''Cereal and Cereal Products,'' In: *Microorganisms in Foods 8. Use of Data for Assessing Process Control and Product Acceptance,* edited by K. M. J. Swanson, R. L. Buchanan, M. B. Cole, J.-L. Cordier, R. S. Flowers, L. G. M. Gorris, M. H. Taniwaki, and R. B. Tompkin, New York, Chapter 15, pp. 218–219, Springer, 2011.
73. International Commission on Microbiological Specifications for Foods, ''Spice, Dry Soups and Asian Flavorings,'' In: *Microorganisms in Foods 8. Use of Data for Assessing Process Control and Product Acceptance,* edited by K. M. J. Swanson, R. L. Buchanan, M. B. Cole, J.-L. Cordier, R. S. Flowers, L. G. M. Gorris, M. H. Taniwaki, and R. B. Tompkin, New York, Chapter 14, pp. 199, Springer, 2011.
74. International Commission on Microbiological Specifications for Foods, ''Cereal and Cereal Products,'' In: *Microorganisms in Foods 8. Use of Data for Assessing Process Control and Product Acceptance,* edited by K. M. J. Swanson, R. L. Buchanan, M. B. Cole, J.-L. Cordier, R. S. Flowers, L. G. M. Gorris, M. H. Taniwaki, and R. B. Tompkin, New York, Chapter 15, pp. 216, Springer, 2011.
75. International Commission on Microbiological Specifications for Foods, ''Nuts, Oilseeds, Dried Legumes and Coffee,'' In: *Microorganisms in Foods 8. Use of Data for Assessing Process Control and Product Acceptance,* edited by K. M. J. Swanson, R. L. Buchanan, M. B. Cole, J.-L. Cordier, R. S. Flowers, L. G. M. Gorris, M. H. Taniwaki, and R. B. Tompkin, New York, Chapter 16, pp. 230, Springer, 2011.
76. International Commission on Microbiological Specifications for Foods, ''Cocoa, Chocolate and Confectionery,'' In: *Microorganisms in Foods 8. Use of Data for Assessing Process Control and*

Product Acceptance, edited by K. M. J. Swanson, R. L. Buchanan, M. B. Cole, J.-L. Cordier, R. S. Flowers, L. G. M. Gorris, M. H. Taniwaki, and R. B. Tompkin, New York, Chapter 17, pp. 241–246, Springer, 2011.
77. International Commission on Microbiological Specifications for Foods, ''Milk and Dairy Products,'' In: *Microorganisms in Foods 8. Use of Data for Assessing Process Control and Product Acceptance,* edited by K. M. J. Swanson, R. L. Buchanan, M. B. Cole, J.-L. Cordier, R. S. Flowers, L. G. M. Gorris, M. H. Taniwaki, and R. B. Tompkin, New York, Chapter 23, pp. 315, Springer, 2011.
78. Proudy, I., D. Bougle, R. Leclercq, and M. Vergnaud, ''Tracing of *Enterobacter sakazakii* Isolates in Infant Milk Formula Processing by BOX–PCR Genotyping,'' *Journal of Applied Microbiology,* 105:550–558, 2008.
79. Mullane, N. R., P. Whyte, P. G. Wall, T. Quinn, and S. Fanning, ''Application of Pulsed-Field Gel Electrophoresis to Characterise and Trace the Prevalence of *Enterobacter sakazakii* in an Infant Formula Processing Facility,'' *International Journal of Food Microbiology,* 116:73–81, 2007.
80. International Commission on Microbiological Specifications for Foods, ''Establishment of Microbiologial Criteria for Lot Acceptance,'' In: *Microorganisms in Foods 7. Microbiological Testing in Food Safety Management,* edited by R. B. Tompkin, L. Gram, T. A. Roberts, R. L. Buchanan, M. van Schothorst, S. Dahms, and M. B. Cole, New York, Chapter 5, pp. 99–112, Kluwer Academic/Plenum Publishers, 2002.
81. FDA, ''Investigations Operations Manual (IOM),'' 2011.
82. FDA, ''Bacteriological Analytical Manual, 8th Edition, Revision A, 1998,'' 1998.
83. FDA, ''Bacteriological Analytical Manual (BAM), Chapter 1. Food Sampling and Preparation of Sample Homogenate,'' 2003.
84. FDA, ''Recall: Products Containing Hydrolyzed Vegetable Protein,'' (*http://www.accessdata.fda.gov/scripts/HVPCP/*), April 1, 2010. Accessed and printed on September 9, 2011.
85. Codex Alimentarius Commission, ''Principles and Guidelines for the Conduct of Microbiological Risk Management (MRM), CAC/GL 63–2007,'' 2007.
86. Codex Alimentarius Commission, ''Codex Alimentarius Commission Procedural Manual, Twentieth Edition,'' 2011.
87. FDA, ''Pistachios and Other Pistachio Containing Products Recall List,'' (*http://www.accessdata.fda.gov/scripts/pistachiorecall/index.cfm*), June 23, 2009. Accessed and printed on September 9, 2011.
88. FDA, ''Plainview Milk Cooperative Ingredient Recall,'' (*http://www.fda.gov/Safety/Recalls/MajorProductRecalls/Milk/default.htm*), July 23, 2009. Accessed and printed on September 9, 2011.
89. FDA, ''Plainview Milk Cooperative Ingredient Recall Product List,'' (*http://www.accessdata.fda.gov/scripts/Milk/*), July 28, 2009. Accessed and printed on September 9, 2011.
90. FDA, ''For Consumers: The HVP Recall (Updated),'' (*http://www.fda.gov/Food/NewsEvents/WhatsNewinFood/ucm202989.htm*), March 24, 2010. Accessed and printed on October 14, 2011.
91. FDA Memorandum, ''Analysis of Food Recalls Initiated in 2008–2009 by an FDA CGMP Working Group,'' 2012.
92. Grocery Manufacturers Association, ''Food Supply Chain Handbook,'' 2008.
93. American Spice Trade Association, ''Clean, Safe Spices,'' 2011.
94. Codex Alimentarius Commission, ''General Principles of Food Hygiene, CAC/RCP 1–1969 (Rev. 4–2003),'' 2003.
95. FDA, ''Guidance for Industry—Voluntary Third-Party Certification Programs for Foods and Feeds,'' 2009.
96. Global Food Safety Initiative, ''GFSI Guidance Document, Version 6.1,'' (*http://www.mygfsi.com/gfsifiles/Guidance_Document_Sixth_Edition_Version_6.1.pdf*), August, 2011. Accessed and printed on October 17, 2011.

Dated: March 15, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–06356 Filed 3–19–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 112

[Docket No. FDA–2011–N–0921]

RIN 0910–AG35

Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA or we) is correcting the preamble to a proposed rule that published in the **Federal Register** of January 16, 2013. That proposed rule would establish science-based minimum standards for the safe growing, harvesting, packing, and holding of produce, meaning fruits and vegetables grown for human consumption. FDA proposed these standards as part of our implementation of the FDA Food Safety Modernization Act. The document published with several technical errors, including some errors in cross references, as well as several errors in reference numbers cited throughout the document. This document corrects those errors. We are also placing a corrected copy of the proposed rule in the docket.

FOR FURTHER INFORMATION CONTACT: Samir Assar, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1636.

SUPPLEMENTARY INFORMATION: FDA is correcting the preamble to the January 16, 2013 (78 FR 3504), proposed rule entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption.'' The document published with several technical errors, including some errors in cross references, as well as several errors in reference numbers cited throughout the document. This document corrects those errors. In addition, we inadvertently omitted the publication by ''Stine et al. (2005)'' from section X. References. We also omitted a reference for ''Todd et al. (2009)'' from section X. References. Therefore, we are correcting the References section to add new Reference 274 for ''Stine et al.'' and new Reference 275 for ''Todd et al.'' We are placing copies of both References 274 and 275 in the docket. We are also placing a corrected copy of the proposed rule in the docket (Ref. 1).

I. Corrections

In FR Doc. 2013–00123, beginning on page 3504, in the **Federal Register** of Wednesday, January 16, 2013, FDA is making the following corrections:

1. On page 3508, in the second column, in the first complete paragraph, in line 5, add the word ''uncommon'' at the end of the sentence directly in front of ''(Ref. 7).''

2. On page 3510, in the third column, the heading ''*B. Produce Safety Action Plan''* is corrected to read ''*C. Produce Safety Action Plan''.*

3. On page 3511, in the first column, the heading ''*C. Public Hearings''* is corrected to read ''*D. Public Hearings''.*

4. On page 3511, in the second column, the heading ''*D. Partnerships and Collaborations''* is corrected to read ''*E. Partnerships and Collaborations''.*

5. On page 3513, in the second column, the heading ''*E. Current Industry Practices''* is corrected to read ''*F. Current Industry Practices''.*

6. On page 3514, in the first column, in the third complete paragraph, in line 3, ''section II.D.'' is corrected to read ''section II.E''.

7. On page 3514, in the first column, the heading ''*F. 2010* ***Federal Register*** *Notice and Preliminary Stakeholder Comments''* is corrected to read ''*G. 2010* ***Federal Register*** *Notice and Preliminary Stakeholder Comments''.*

8. On page 3514, in the third column, beginning in line 26, ''V.C'' is corrected to read ''V.A''.

9. On page 3516, in the first column, the heading ''*G. White House Food Safety Working Group''* is corrected to read ''*H. White House Food Safety Working Group''.*

10. On page 3516, in the second column, the heading ''*H. Other Related Issues''* is corrected to read ''*I. Other Related Issues''.*

11. On page 3519, in the first column, in the first paragraph, in line 10, ''II.D.1'' is corrected to read ''II.E.1''.

12. On page 3520, in the first column, in line 4, ''section X'' is corrected to read ''section VI''.

13. On page 3521, in the first column, the heading ''*F. Intrastate Activities''* is corrected to read ''*E. Intrastate Activities''.*

14. On page 3521, in the third column, the heading ''*E. Relevance of Section 415 of the FD&C Act to ''Farm'' Definition and Related Definitions''* is corrected to read ''*F. Relevance of Section 415 of the FD&C Act to ''Farm'' Definition and Related Definitions''.*

15. On page 3521, in the third column, in the first complete paragraph, the sentence ''FDA intends to issue a notice of proposed rulemaking implementing section 418 of the FD&C Act (section 103 of FSMA) in the near future'' is corrected to read ''Elsewhere in this issue of the **Federal Register**, FDA is issuing a notice of proposed rulemaking implementing section 418 of the FD&C Act (section 103 of FSMA)''.

16. On page 3529, in the second column, in the first complete paragraph, in line 42, ''(Ref. 35. Ref. 36. Ref. 37)'' is corrected to read ''(Refs. 2, 92, 142, 165, and 166)''.

17. On page 3536, in the second column, in the first complete paragraph, in lines 20 and 21, ''(Ref. 160. Ref. 161)'' is corrected to read ''(Refs. 16, and 208)''.

18. On page 3546, in the third column, in the third complete paragraph, in line 12, ''IV.A.'' is corrected to read ''IV.B''.

19. On page 3553, in the third column, in the first complete paragraph, in line 24, ''(Ref. 104)'' is corrected to read ''(Ref. 198)''.

20. On page 3556, in the first column, in the second complete paragraph, in lines 23 and 24, ''(Ref. 8. Ref. 33. Ref. 18. Ref. 89. Ref. 84)'' is corrected to read ''(Refs. 10, 20, 26, 48, 50, 96)''.

21. On page 3556, in the second column, in the first complete paragraph, in line 21, ''II.D.'' is corrected to read ''II.E''.

22. On page 3557, in the first column, in the last line, ''(Ref. 93) (Ref. 107)'' is corrected to read ''(Refs. 26, 107, 234)''.

23. On page 3557, in the second column, in lines 5 and 6, ''(Ref. 95 Ref. 96 Ref. 97 Ref. 98 Ref. 93)'' is corrected to read ''(Refs. 26, 96, 107, 234)''.

24. On page 3557, in the third column, in line 9, ''(Ref. 89 Ref. 84 Ref. 99)'' is corrected to read ''(Refs. 43, 44, 46)''.

25. On page 3557, in the third column, beginning in the last line ''(Ref. 44)'' is corrected to read ''(Ref. 10)''.

26. On page 3558, in the first column, in the last paragraph, beginning in line 12, ''(Ref. 98 Ref. 99 Ref. 100)'' is corrected to read ''(Refs. 109, 111)''.

27. On page 3558, in the third column, in the last paragraph, in lines 4 and 5, ''(Ref. 89 Ref. 84 Ref. 99)'' is corrected to read ''(Refs. 43, 44, 46)''.

28. On page 3559, in the second column, in lines 28 and 29, ''(Ref. 89. Ref. 84. Ref. 99)'' is corrected to read ''(Refs. 44, 46)''.

29. On page 3559, in the third column, in the first paragraph, in line 22, ''(Ref. 89. Ref. 84. Ref. 99)'' is corrected to read ''(Refs. 44, 46)''.

30. On page 3560, in the second column, in lines 27, 28, and 29, ''(Ref. 107. Ref. 108. Ref. 109. Ref. 110. Ref. 108. Ref. 111. Ref. 112)'' is corrected to read ''(Refs. 107, 110, 111, 116)''.

31. On page 3560, in the third column, in the first complete paragraph, in line 19, ''(Ref. 109)'' is corrected to read ''(Ref. 274)''.

32. On page 3561, in the second column, in the second complete paragraph, in lines 7 and 8, ''(Ref. 115, Ref. 116. Ref. 117. Ref. 118)'' is corrected to read ''(Refs. 116, 117, 118)''.

33. On page 3562, in the first column, in the second complete paragraph, in lines 14 and 15, ''(Ref. 131. Ref. 112)'' is corrected to read ''(Refs. 116, 131)''.

34. On page 3562, in the second column, in lines 2 and 3, ''(Ref. 132. Ref. 133. Ref. 114. Ref. 123)'' is corrected to read ''(Refs. 29, 119, 151, 154)''.

35. On page 3562, in the second column, in the first complete paragraph, in lines 6 and 7, ''(Ref. 134. Ref. 135. Ref. 133. Ref. 136. Ref. 137. Ref. 138. Ref. 112)'' is corrected to read ''(Refs. 119, 134, 136, 137)''.

36. On page 3562, in the second column, in the first complete paragraph, in line 9, ''(Ref. 108) (Ref. 116)'' is corrected to read ''(Ref. 116)''.

37. On page 3564, in the first column, in the first complete paragraph, in line 20, ''Ref GAPs Guide'' is corrected to read ''Ref. 10''.

38. On page 3564, in the second column, in the last paragraph, in line 25, ''(Ref. 130)'' is corrected to read ''(Ref. 274)''.

39. On page 3564, in the third column, in lines 21 and 22, ''(Ref. 131. Ref. 132)'' is corrected to read ''(Refs. 14, 120, 142)''.

40. On page 3567, in the third column, in the first complete paragraph, in lines 21 and 22, ''(Ref. 132. Ref. 133. Ref. 134. Ref. 135. Ref. 136. Ref. 137. Ref. 108)'' is corrected to read ''(Refs. 119, 134, 136, 137)''.

41. On page 3567, in the third column, in the first complete paragraph, in line 42, ''(Ref. 133. Ref. 143. Ref. 153. Ref. 131)'' is corrected to read ''(Refs. 131, 143, 153)''.

42. On page 3568, in the first column, in the 6th line from the bottom, ''(Ref. 133)'' is corrected to read ''(Ref. 107)''.

43. On page 3569, in the second column, in line 1, ''(2003)'' is corrected to read ''(2010)''.

44. On page 3576, in the third column, in the first complete paragraph, in line 15, ''(Ref. 171)'' is corrected to read ''(Refs. 171, 175)''.

45. On page 3576, in the third column, in the first complete paragraph, in lines 24 and 25, ''(Ref. 171. Ref. 172)'' is corrected to read ''(Ref. 172)''.

46. On page 3576, in the third column, in the first complete paragraph, in line 33, ''(Ref. 171)'' is corrected to read ''(Ref. 175)''.

47. On page 3577, in the third column, in the first paragraph, in lines 22 and 23, ''(Ref. 171)'' is corrected to read ''(Ref. 175)''.

48. On page 3579, in the first column, in the first paragraph, in lines 34 and 35, ''(Ref. 115)'' is corrected to read ''(Refs. 175, 181)''.

49. On page 3582, in the first column, in the fifth line from the bottom, ''(Ref. 181. Ref. 182. Ref. 183)'' is corrected to read ''(Refs. 179, 191)''.

50. On page 3584, in the third column, in the first complete paragraph, in lines 4 and 5, ''(a)(1)(a) and (4)(a)'' is corrected to read ''(a)(1)(i) and (4)(i)''.

51. On page 3584, in the third column, in the first complete paragraph, in line 13, ''(4)(a)'' is corrected to read ''(4)(i)''.

52. On page 3586, in the third column, in the first complete paragraph, in lines 10 and 11, ''(Ref. 200)'' is corrected to read ''(Ref. 203)''.

53. On page 3587, in the second column, in line 2, ''(Ref. 199)'' is corrected to read ''(Ref. 203)''.

54. On page 3589, in the third column, in the first complete paragraph, in line 39, ''(Ref. 226. Ref. 227)'' is corrected to read ''(Ref. 275)''.

55. On page 3590, in the second column, in the first complete paragraph, in lines 28 and 29, ''(Ref. 182) (Ref. 228)'' is corrected to read ''(Ref. 228)''.

56. On page 3591, in the third column, in the first paragraph, in lines

29 and 30, ''(Ref. 85. Ref. 94. Ref. 27)'' is corrected to read ''(Refs. 44, 46)''.

57. On page 3593, in the first column, in the second complete paragraph, in lines 5 and 6, ''(Ref. 85. Ref. 94. Ref. 194)'' is corrected to read ''(Refs. 44, 46)''.

58. On page 3593, in the third column, in the first complete paragraph, in lines 5 and 6, ''(Ref. 85. Ref. 94. Ref. 194)'' is corrected to read ''(Refs. 44, 46)''.

59. On page 3594, in the third column, in the third complete paragraph, in line 17, ''(Ref. 38. Ref. 191. Ref. 192. Ref. 193)'' is corrected to read ''(Refs. 47, 240, 242, 245)''.

60. On page 3596, in the first column, in the first complete paragraph, in lines 19 and 20, ''(Ref. 16. Ref. 196., Ref. 192., Ref. 197)'' is corrected to read ''(Refs. 16, 241, 242)''.

61. On page 3596, in the third column, in the first paragraph, in lines 26 and 27, ''(Ref. 16. Ref. 18. Ref. 192. Ref. 193)'' is corrected to read ''(Refs. 16, 18)''.

62. On page 3596, in the third column, in the first complete paragraph, in line 18, ''(Ref. 38. Ref. 18. Ref. 192. Ref. 193)'' is corrected to read ''(Refs. 18, 47, 240, 245)''.

63. On page 3597, in the first column, in the second complete paragraph, in lines 10 and 11, ''(Ref. 193. Ref. 191. Ref. 38)'' is corrected to read ''(Refs. 47, 240, 245)''.

64. On page 3597, in the second column, in line 6, ''(Ref. 192. Ref. 201)'' is corrected to read ''(Refs. 242, 243)''.

65. On page 3597, in the third column, in the second complete paragraph, in lines 15 and 16, ''(Ref. 17. Ref. 252)'' is corrected to read ''(Ref. 252)''.

66. On page 3598, in the second column, in line 8, ''(Ref. 38. Ref. 191. Ref. 193)'' is corrected to read ''(Refs. 47, 240, 245)''.

67. On page 3598, in the second column, in the first complete paragraph, in line 9, ''(Ref. 16. Ref. 74)'' is corrected to read ''(Refs. 16, 50)''.

68. On page 3598, in the second column, in the first complete paragraph, in lines 20 and 21, ''(Ref. 15. Ref. 198. Ref. 209)'' is corrected to read ''(Refs. 15, 243, 255)''.

69. On page 3598, in the third column, in the second complete paragraph, in line 8, ''(Ref EU OB)'' is corrected to read ''(Ref. 244)''.

70. On page 3599, in the second column, in the first paragraph, in line 11, ''(Ref. 211. Ref. 212)'' is corrected to read ''(Refs. 257, 259)''.

71. On page 3599, in the second column, in the last paragraph, in the 6th line, ''(Ref. 213. Ref. 212)'' is corrected to read ''(Refs. 257, 258)''.

72. On page 3599, in the third column, in lines 19 and 20, ''(Ref. 175. Ref. 212)'' is corrected to read ''(Refs. 207, 257)''.

73. On page 3599, in the third column, in the first complete paragraph, in lines 12 and 13, ''(Ref. 175. Ref. 211)'' is corrected to read ''(Refs. 254, 258, 259)''.

74. On page 3600, in the first column, in line 27, ''(Ref. 175. Ref. 211)'' is corrected to read ''(Refs. 207, 259)''.

75. On page 3600, in the first column, in the first complete paragraph, in line 7, ''(Ref. 175. Ref. 211) (Ref. 257)'' is corrected to read ''(Ref. 257)''.

76. On page 3600, in the third column, in the second complete paragraph, in lines 28 and 29, ''(Ref. 180. Ref. 221. Ref. 219)'' is corrected to read ''(Refs. 207, 257, 259)''.

77. On page 3601, in the first column, in the first paragraph, in lines 25 and 26, ''(Ref. 15. Ref. 206. Ref. 201. Ref. 203)'' is corrected to read ''(Refs. 15, 240, 242, 245)''.

78. On page 3601, in the first column, in the first complete paragraph, in lines 8 and 9, ''(Ref. 15. Ref. 223. Ref. 224)'' is corrected to read ''(Refs. 15, 255)''.

79. On page 3604, in the third column, in the first complete paragraph, in line 33, ''(Ref. 44)'' is corrected to read ''(Ref. 262)''.

80. On page 3608, in the third column, in the first complete paragraph, in line 4, ''II.D.'' is corrected to read ''II.E''.

81. On page 3619, in the second column, in lines 3 and 4, ''(Ref. 268. Ref. 269. Ref. 270. Ref. 271. Ref. 272. Ref. 267)'' is corrected to read (''Refs. 267, 268, 269, 270, 271)''.

82. On page 3625, in the first column, in Reference 156, the year ''1988'' is corrected to read ''1998''.

83. On page 3628, in the first column, Reference 274 is added in numerical order to read: ''274. Stine, S. W., Song, I., Choi, C. Y., Gerba, C. P., ''Application of Microbial Risk Assessment to the Development of Standards for Enteric Pathogens in Water Used to Irrigate Fresh Produce.'' *Journal of Food Protection,* 68(5): 913–918, 2005.''

84. On page 3628, in the first column, Reference 275 is added in numerical order to read: ''275. Todd E. C. D., Greig J. D., Bartleson C. A. *et al.,* Outbreaks Where Food Workers Have Been Implicated in the Spread of Foodborne Disease. Part 6. Transmission and Survival of Pathogens in the Food Processing and Preparation Environment. *Journal of Food Protection,* 72(1): 202–219, 2009.''

II. Reference

The following reference has 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. This reference is also available electronically at *http://www.regulations.go.*

1. FDA, ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Proposed Rule'' (corrected version), 2013.

Dated: March 15, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–06357 Filed 3–19–13; 8:45 am]

BILLING CODE 4160–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0965; FRL–9792–4]

Approval of Air Quality Implementation Plans; Indiana; Disapproval of State Implementation Plan Revision for ArcelorMittal Burns Harbor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 10, 2009, Indiana submitted a request for a revision to its sulfur dioxide (SO_2) state implementation plan (SIP) for the ArcelorMittal Burns Harbor facility in Porter County, Indiana. This revision would remove the SO_2 emission limit for the blast furnace gas flare at the facility. For the reasons discussed below, EPA is proposing to disapprove this requested revision.

DATES: Comments must be received on or before April 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0965, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77

West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0965. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Mary Portanova, Environmental Engineer, at (312) 353–5954 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5954, *portanova.mary@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What is the background for this action?
III. What is EPA's evaluation of the State's submittal?
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What is the background for this action?

On December 10, 2009, the Indiana Department of Environmental Management (IDEM) submitted a request to EPA, asking EPA to approve a revision to its SO_2 SIP. This revision would amend 326 Indiana Administrative Code (IAC) 7–4–14, Porter County SO_2 Emission Limitations, by removing the SO_2 emission limit for the blast furnace flare at the ArcelorMittal Burns Harbor LLC (ArcelorMittal) steel mill. In Indiana's current SO_2 SIP, which EPA approved on January 19, 1989 (54 FR 2112), the blast furnace flare had a limit of 0.07 pounds of SO_2 per million British Thermal Units (lbs/mmBtu). The approved SO_2 SIP also contains SO_2 emission limits for a number of combustion units at ArcelorMittal, including blast furnace stoves, coke battery underfire, and power station boilers. Indiana's December 10, 2009 SIP revision request did not alter these emission limits.

ArcelorMittal's blast furnace flare is used as a safety device to reduce excess pressure in the blast furnace gas lines and as a method for disposing of excess blast furnace gas. Blast furnace gas is generated during the process of iron production in the blast furnace. The gas is collected from the facility's blast furnace and used as fuel, along with coke oven gas and natural gas, in the facility's blast furnace stoves, power plant boilers, slab mill soaking pits, and coke batteries. It should be noted that the existing SIP flare limit does not restrict the total amount of blast furnace gas that may be burned in the flare, or limit the frequency or duration of the flare's usage. The actual SO_2 emissions from the flare are determined by the total amount of gases it burns, and the sulfur content of those gases.

III. What is EPA's evaluation of the State's submittal?

Section 110(l) of the Clean Air Act (CAA) states that the Administrator shall not approve a SIP revision if it would interfere with any applicable requirement concerning attainment of the national ambient air quality standards (NAAQS) and reasonable further progress, 42 U.S.C. 7410(l). Under 40 CFR 51.112(a), each SIP must demonstrate that the measures, rules, and regulations it contains are adequate to provide for the timely attainment and maintenance of the NAAQS. For the reasons discussed below, EPA believes that the State has not demonstrated that this SIP revision submission satisfies the requirements for approval under section 110(l) of the CAA.

The State maintains that removing the blast furnace flare limit from the SIP will not result in or allow an increase in actual SO_2 emissions, and that the emission limit for the flare is redundant and unnecessary for continued protection of the SO_2 NAAQS. EPA disagrees with these claims. For the blast furnace flare limit to be considered redundant, the sulfur content of the blast furnace gas must be addressed elsewhere in the SIP, but this is not the

case. There are limits on individual combustion sources that use blast furnace gas, such as the blast furnace C and D stoves and the power station boilers, in 326 IAC 7–4–14 (1)(B) and (C). These sources are allowed to use a combination of blast furnace gas and coke oven gas, and their emission limits reflect this combination. The emission limits in 326 IAC 7–4–14 (1)(B) and (C) do not specifically limit the sulfur content of either coke oven gas or blast furnace gas.

The State, in the August 8, 2007, Second Notice of Comment Period for the rulemaking action on the December 10, 2009, SIP revision request, notes that ''ISG Burns Harbor LLC [1] states that the sulfur content present in raw materials processed at the blast furnace is highly variable. Because the nature of the steelmaking process requires a continuous addition of raw materials to the blast furnace, it is technically infeasible to manage the sulfur content of materials charged in the blast furnace to achieve compliance with the blast furnace flare SO_2 emission limit.'' If this variability provides for the production of blast furnace gas exceeding 0.07 lbs/mmBtu, and if some of this gas is occasionally flared, then the removal of the flare limit could result in and allow an increase in actual SO_2 emissions from the flare.

The State asserts that because the facility fully intends to use all the blast furnace gas it produces, the flare's emissions would be infrequent and therefore inconsequential. However, in a June 29, 2011, letter which IDEM forwarded to EPA, ArcelorMittal indicated that when a boiler or stove must be curtailed or shut down, some blast furnace gas may be redirected to the blast furnace flare. The letter also acknowledged that the flare is necessary for the safe operation of the blast furnace gas systems, as it is used to regulate pressure by accommodating gas surges, which could present safety risks at the boilers or stoves.

EPA believes that unless gas pressure surges are impossible while the stoves and boilers are operating normally, or unless the stoves and boilers always revert to a lower rate of operation whenever a pressure surge occurs, the flare's emissions may not be negligible for SIP planning purposes. Since the stoves and boilers operate on a combination of blast furnace gas, coke oven gas, and natural gas, their full operating rates could be maintained with the other fuel gases during pressure surges that affect the flow of blast furnace gas and necessitate the use of the flare. Therefore, the December 10, 2009, SIP revision request would enable an increase in allowable emissions.

IDEM did not include a revised attainment demonstration of the SO_2 NAAQS with its December 10, 2009, submission. Instead, it relied on its 1988 demonstration of attainment, which included a detailed air dispersion modeling analysis of the steel mill. The 1988 modeling demonstration presumed that blast furnace gas and coke oven gas would be used together in the units at ArcelorMittal which are allowed to use both fuels. For example, the blast furnace stoves were modeled at an emission rate corresponding to 60% blast furnace gas usage and 40% coke oven gas usage. The SO_2 emission rate used for blast furnace gas combustion in the 1988 modeling analysis was 0.07 lbs/mmBtu. The blast furnace flare was modeled at its SIP emission limit of 0.07 lbs/mmBtu. IDEM used an emission rate of 1.96 lbs/mmBtu for coke oven gas in the 1988 analysis.

IDEM asserts that the SO_2 SIP emission limits in 326 IAC 7–4–14 (1)(B) and (C), which are applicable to the facility's combustion sources, account for all of the blast furnace gas that the facility can produce. Therefore, IDEM states, a limit on the flare is unnecessary to protect the NAAQS. Although the company provided evidence that recent gas production rates have kept the facility well within its SIP emission limits, IDEM has not provided sufficient information to EPA to confirm the company's maximum capacity for producing either blast furnace gas or coke oven gas. The coke oven gas production capacity is relevant because many of the stoves and boilers are able to use both fuels, and the 1988 analysis modeled the combustion units as using both fuels together in specific ratios. The facility does not store either gas, so the gases must be combusted as they are produced. IDEM did not provide EPA with any information regarding the amount of flaring that actually occurred during the data years. Regardless, the flare limit acts to address the sulfur content of the blast furnace gas, rather than to limit the amount of time the flare operates, or how much gas it combusts in total. If the flare limit is removed, then ArcelorMittal could produce and use blast furnace gas with sulfur content greater than 0.07 lbs/mmBtu. If ArcelorMittal does so, and sends some of this gas to the flare, the higher sulfur gas could lead to increased ambient impacts from the flare which would not be covered by the 1989 modeling.

A proposed SIP ''must demonstrate that the measures, rules, and regulations contained in it are adequate to provide for the timely attainment and maintenance of the national standard that it implements.'' *Montana Sulphur & Chemical Co.* v. *EPA,* 666 F.3d 1174, 1189 (9th Cir. 2012). Courts have also recognized the importance of including numerical emission limits in SIPs for flares. In the *Montana Sulphur* case, the United States Court of Appeals for the Ninth Circuit affirmed this concept, noting that flare emissions ''can affect attainment, and limits on them reasonably can be required, particularly where the state has relied on such limits to demonstrate attainment.'' *Id.*

In conclusion, EPA disagrees with IDEM's assertion that ArcelorMittal's blast furnace gas flare limit is redundant, unnecessary, or that its removal would not result in or allow an increase in actual SO_2 emissions. The revised rule does not adequately address the potential for variability in blast furnace gas sulfur content, which could affect the validity of the emission rates used in the existing attainment demonstration, thus undermining the SIP's ability to ensure protection of the SO_2 NAAQS. EPA believes that the revised rule does not satisfy the requirements for approval under section 110(l) of the CAA.

IV. What action is EPA taking?

For the reasons discussed above, EPA is proposing to disapprove Indiana's December 10, 2009, submittal requesting a SIP revision to remove the SO_2 emission limit on the blast furnace gas flare at ArcelorMittal Burns Harbor in Porter County.

V. Statutory and Executive Order Reviews

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

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, therefore, is not subject to review under the Executive Order.

[1] The Burns Harbor facility was operated by ISG Burns Harbor, LLC, in 2007.

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., because this proposed SIP disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new information collection burdens but simply disapproves certain State requirements for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. This rule does not impose any requirements or create impacts on small entities. This proposed SIP disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new requirements but simply disapproves certain State requirements for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (e.g., higher offset requirements) may or will flow from this disapproval does not mean that EPA either can or must conduct a regulatory flexibility analysis for this action. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector.'' EPA has determined that the proposed disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action proposes to disapprove pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely disapproves certain State requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this action.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP EPA is proposing to disapprove would not 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. Thus, Executive Order 13175 does not apply to this action.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed SIP disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new regulations but simply disapproves certain State requirements for inclusion into the SIP.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

EPA believes that this action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the CAA.

Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed action. In reviewing SIP submissions, EPA's role is to approve or disapprove State choices, based on the criteria of the CAA. Accordingly, this action merely proposes to disapproves certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the CAA and will not in-and-of itself create any new requirements. Accordingly, it 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Sulfur oxides.

Dated: March 8, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–06419 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0132; FRL– 9792–3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland and Virginia; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Washington, DC–MD–VA Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the attainment demonstration portion of the attainment plan submitted by the District of Columbia, the State of Maryland and the Commonwealth of Virginia as revisions to each of their State Implementation Plans (SIPs). These revisions demonstrate attainment of the 1997 8-hour ozone national ambient air quality standard (1997 ozone NAAQS) for the Washington, DC–MD–VA, moderate nonattainment area (the Washington Area) by the applicable attainment date of June 2010. EPA has determined that each of the three SIP revisions meet the applicable requirements of the Clean Air Act (CAA). This action is being taken in accordance with the CAA.

DATES: Written comments must be received on or before April 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0132 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristinia@epa.gov.*

C. *Mail:* EPA–R03–OAR–2013–0132, Cristina Fernandez, Associate Director, Office of Air Planning Program, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the States' submittals are available at the District of Columbia, Department of the Environment, Air Quality Division, 1200 1st Street NE., 5th floor, Washington, DC 20002; Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or by email at *cripps.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: The following is provided to aid in locating information in this preamble.

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I. Summary of Proposed Action

EPA is proposing to approve the attainment demonstration, failure to

attain contingency measures elements and the associated motor vehicle emission budgets (MVEBs) of the SIP revisions submitted by the District of Columbia, the State of Maryland and the Commonwealth of Virginia (hereafter ''the 3 States'' [1]) to EPA on June 12, 2007, June 4, 2007 and June 12, 2007, respectively (hereafter the ''June 2007 SIP revisions''). The June 2007 SIP revisions included, among other things, the attainment plan and failure-to-attain contingency measures elements for the 1997 ozone NAAQS in the Washington Area. With the June 2007 SIP revisions, the 3 States submitted an attainment demonstration for the Washington Area and its associated proposed MVEBs used for transportation conformity purposes in the Washington Area. With the June 2007 SIP revisions, the 3 States also submitted a 2002 base year emissions inventory, an analysis of reasonably available control measures/reasonably available control technology (RACM/RACT), the 2008 reasonable further progress (RFP) plan and its associated MVEBs for 2008, and contingency measures. The RFP plan with its MVEBs, the RACM/RACT analysis, the 2002 base year emissions inventory, and contingency measures for any failure to make RFP in the June 2007 SIP revisions were approved by EPA on September 20, 2011 (76 FR 58116) (the ''September 20, 2011 final rule''). Therefore, in this action, EPA is only proposing to approve what remains from the June 2007 SIP revisions including the attainment demonstration, failure to attain contingency measures, and the associated MVEBs for the 1997 ozone NAAQS for the Washington Area.

EPA has determined that the 3 States' attainment demonstration meets the applicable requirements of the CAA because it demonstrates attainment by the applicable attainment date of June 15, 2010. EPA's analysis and findings are discussed in this proposed rulemaking. In addition, a technical support document (TSD) for this proposal entitled ''Technical Support Document for Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland and Virginia; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Washington, DC–MD–VA Moderate Nonattainment Area'' (referred to hereafter as the ''Attainment TSD'') is available on line at *www.regulations.gov,* Docket No. EPA–R03–OAR–2013–0132. The Attainment TSD provides additional explanation on EPA's analysis supporting this proposed approval of the attainment demonstration.

II. Background Information

A. Background on the 1997 Ozone NAAQS and Designation of the Washington Area

On July 18, 1997 (62 FR 38856), EPA promulgated the 1997 ozone NAAQS which revised the health-based NAAQS for ozone by setting the NAAQS at 0.08 parts per million (ppm) averaged over an 8-hour time frame. EPA set the 1997 ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 1997 ozone NAAQS would be more protective of human health, especially for children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

On April 30, 2004 (69 FR 23951), EPA finalized the attainment/nonattainment designations for areas across the country with respect to the 1997 ozone NAAQS. These actions became effective on June 15, 2004. Among those nonattainment areas was the Washington Area. The Washington Area is comprised of: the entire District of Columbia (the District); a portion of Maryland (Calvert, Charles, Frederick, Montgomery, and Prince George's Counties); and a portion of Virginia (Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Manassas and Manassas Park Cities, and Prince William County).

In addition, on April 30, 2004 (69 FR 23951), EPA promulgated its Phase 1 Implementation Rule which provided how areas designated nonattainment for the 1997 ozone NAAQS would be classified using the design value for each nonattainment area. Based upon its design value for the three-year period 2001–2003, the Washington Area was classified as a moderate ozone nonattainment area under the 1997 ozone NAAQS. *See* 40 CFR 81.309, 81.321, and 81.347.

Moderate areas are required to attain the 1997 ozone NAAQS by no later than six years after designation. Therefore, the Washington Area was to attain by no later than June 15, 2010. *See* 40 CFR 51.903 and 69 FR 23951, April 30, 2004.

B. Actions Regarding Determination of Attainment of the 1997 Ozone NAAQS by the Washington Area

On February 28, 2012 (77 FR 11739), EPA published two determinations regarding the 1997 ozone NAAQS for the Washington Area. First, EPA made a clean data determination that the Washington Area had attained the 1997 ozone NAAQS.

This determination was based upon complete, quality assured, and certified ambient air monitoring data that showed the Washington Area had monitored attainment of the 1997 ozone NAAQS for the 2008–2010 monitoring period. Ambient air monitoring data for the 2009–2011 monitoring period is consistent with continued attainment. Second, pursuant to section 181(b)(2)(A) of the CAA, EPA made a determination of attainment that the Washington Area had attained the 1997 ozone NAAQS by its attainment date of June 15, 2010 as required by section 181 of the CAA as interpreted by the implementation rule (40 CFR 51.903) for the 1997 ozone NAAQS.

Even though the attainment date for the Washington Area has passed and the area has in fact attained the 1997 ozone NAAQS by that date, EPA believes that approval of the attainment demonstration and contingency measures plan in the June 2007 SIP revisions is important because such approval strengthens the ozone SIP of each of the 3 States by reserving reductions from various measures for air quality purposes and by approving lower MVEBs into the SIP than those associated with the 2008 RFP plan.

C. Adequacy of the 2009 and 2010 MVEBs

EPA conducted the process to determine the adequacy of the MVEBs for the entire Washington Area associated with the attainment demonstration portions of the June 2007 SIP revisions for the Washington Area. On September 27, 2012, EPA posted a notice on EPA's Web site at *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm* for the purpose of opening a 30-day public comment period on the adequacy of the MVEBs for the Washington Area in the June 2007 SIP revisions' attainment demonstration for the Washington Area. That notice informed the public of the availability of the June 2007 SIP revisions. EPA's public comment period closed on October 29, 2012, and no comments were received. EPA published a notice of adequacy in the **Federal Register** on February 7, 2013 (78 FR 9044) which announced EPA had

[1] Section 302(d) confers upon the District of Columbia the same rights and responsibilities for air pollution control as the 50 states.

determined that the MVEBs were adequate. EPA's determination that the 2009 and 2010 MVEBs in the June 2007 SIP revisions has the effect of making the 2009 volatile organic compounds (VOC) and 2010 nitrogen oxides (NO_X) MVEBs the MVEBs applicable for transportation conformity purposes as of February 22, 2013. This proposed action, if issued as a final rule, would approve these budgets into the ozone SIP of each of the 3 States.

III. CAA Requirements for Moderate 8-Hour Ozone Nonattainment Areas

Pursuant to the Phase 1 Implementation Rule, the Washington Area was classified under subpart 2 as a moderate nonattainment area. On November 29, 2005 (70 FR 71612), EPA promulgated the second phase of the implementation rule (Phase 2 Implementation Rule) for the 1997 ozone NAAQS. The Phase 2 Implementation Rule set forth the submission deadlines and the remaining substantive requirements for the attainment demonstration, contingency measures and RFP requirements of section 172(c) as supplemented by section 182(b) of the CAA.

The Phase 2 Implementation Rule addressed the control obligations that apply to areas classified under subpart 2. Among other things, the Phase 1 and 2 Implementation Rules outline the required SIP elements and deadlines for those various requirements in areas designated as moderate nonattainment.

The requirements regarding a demonstration of attainment of the 1997 ozone NAAQS are:

1. A demonstration that the SIP contains enough reductions in VOC emissions and NO_X emissions to attain the 1997 ozone NAAQS as expeditiously as practicable but no later than June 15, 2010. *See* section 172(c)(1) as amended by section 182(b)(1) as codified in 40 CFR 51.908. However, because compliance with the 1997 ozone NAAQS must be determined using three years of complete, quality-assured air quality monitoring data, any determination of attainment by June 15, 2010 would have to be made upon the most recent three years of air quality monitoring data available which would be 2007, 2008 and 2009. For this reason, the Phase 1 Implementation Rule (40 CFR 51.908) required that the emission reduction measures needed to be implemented no later than the beginning of the 2009 ozone season and that the MVEBs associated with the attainment demonstration be for 2009. As a result, the modeling demonstration needed to use projected 2009 emissions inventories reflecting the control strategies and predicted 2009 design values;

2. A demonstration that the SIP provides for the implementation of all RACM (including at a minimum RACT on existing sources). Section 172(c)(1) includes two elements: (a) Under section 172(c)(1) RACM/RACT, a state must ''consider all potentially available measures to determine whether they [a]re reasonably available for implementation in the area, and whether they would advance the [area's] attainment date.'' *See* 66 FR 585, 608 (January 3, 2001); and (b) under CAA section 182(b)(2), the CAA sets a requirement for RACT not related to expeditious attainment but requires a State adopt rules for any category of VOC sources for which EPA has issued a control technique guideline (CTG) and for any other major stationary sources of VOC emissions in the area. Section 182(f) extends the requirement for RACT under section 182(b)(2)(C) to any major stationary sources of NO_X emissions in the area.

3. A demonstration that the SIP provides a minimum RFP towards attainment by reducing baseline emissions of VOC and/or NO_X by 15 percent before December 31, 2008 and contains adequate MVEBs for 2008;

4. A 2002 baseline inventory from which the 15 percent reduction in baseline emissions is to be determined; and

5. Specific measures to be undertaken if the area fails to: (a) attain the 1997 ozone NAAQS by June 15, 2010, or (b) fails to achieve RFP. *See* section 179(c)(9).

6. Adequate MVEBs: [2] In the case of moderate nonattainment areas under the 1997 ozone NAAQS, RFP plans and attainment demonstrations must contain adequate MVEBs for 2008 and 2009, respectively. In the June 2007 SIP revisions, the 3 States also included a 2010 MVEB for NO_X as part of the contingency plan to address a failure to attain.

IV. Description of the States' SIP Submittals

In the June 2007 SIP revisions, the 3 States submitted a comprehensive attainment plan for the 1997 ozone NAAQS. The June 2007 SIP revisions included an attainment demonstration with 2009 MVEBs, the RFP plan with 2008 MVEBs, a RACM/RACT analysis, the 2002 base year emissions inventory, and contingency measures for any failure to make RFP. This rulemaking action only addresses the portions of the June 2007 SIP revisions not previously approved by EPA including the attainment demonstration, contingency measures for failure to attain, and associated 2009 and 2010 MVEBs. By a separate and concurrent process, EPA had already determined that the 2009 and 2010 MVEBs associated with the ozone attainment demonstration and contingency measures portions in the June 2007 SIP revisions are adequate. In this proposed rule, EPA proposes to approve those 2009 and 2010 MVEBs into the SIPs of each of the 3 States. As stated in section I of this document, the other elements—including the RFP plan with MVEBs, a RACM/RACT analysis, the 2002 base year emissions inventory, and contingency measures for any failure to make RFP—in the June 2007 SIP revisions were approved by the September 20, 2011 final rule.

V. EPA's Review of the States' Modeled Attainment Demonstration and Weight of Evidence Analysis for the Washington Area

Section 110(a)(2)(K) of the CAA requires states to prepare air quality modeling to show how they will meet ambient air quality standards. EPA determined that areas classified as moderate or above must use photochemical grid modeling or any other analytical method determined by the Administrator to be at least as effective to demonstrate attainment of the ozone health-based standard by the required attainment date. *See* 40 CFR 51.908. On April 30, 2004 (69 FR 23951 and 40 CFR 51.903), EPA specified how areas would be classified with regard to the 8-hour ozone standard set by EPA in 1997. On April 30, 2004 (69 FR 23858), EPA followed these procedures and classified the Washington Area as moderate, and the nonattainment area was required to attain the 1997 ozone NAAQS by June 2010. Because the attainment date was June 2010 for moderate areas, states had to achieve emission reductions by the ozone season of 2009 in order for ozone concentrations to be reduced and show attainment during the last complete ozone season before the 2010 deadline.

A. EPA Guidance for Using Models To Determine Attainment

EPA's photochemical modeling guidance is found at *Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone*, $PM_{2.5}$, *and Regional Haze,* EPA–454/B–07–002, April 2007. The photochemical modeling guidance is divided into two parts. One part describes how to use a

[2] *See* 64 FR 70460 at 70465, December 16, 1999 and 70 FR 6796 at 6799, February 9, 2005, citing CAA section 176(c)(2)(A).

photochemical grid model for ozone to assess whether an area will come into attainment of the air quality standard. A second part describes how the user should perform supplemental analyses, using various analytical methods, to determine if the model over predicts, under predicts, or accurately predicts the air quality improvement projected to occur by the attainment date. The guidance indicates that states should review these supplemental analyses, in combination with the modeling analysis, in a ''weight of evidence'' assessment to determine whether each area is likely to achieve timely attainment.

A description of how the attainment demonstration from the June 2007 SIP revisions addresses this EPA modeling guidance for a modeled attainment demonstration can be found in the Attainment TSD titled ''Technical Support Document for Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland and Virginia; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Washington, DC–MD–VA Moderate Nonattainment Area,'' available on line at *www.regulations.gov*, Docket number EPA–R03–OAR–2013–0132.

In the June 2007 SIP revisions, the photochemical grid model used projected emissions for 2009, including emission changes due to regulations the 3 States and neighboring states were planning to implement or had already implemented and due to expected growth by the 2009 ozone season. Meteorological conditions from 2002, the same as the base year modeling, were used in the projection modeling for 2009. Using base case meteorology allows the effect of changes in states' emissions to be determined without being influenced by yearly fluctuations in meteorology and is consistent with EPA guidance.

The attainment test used in the Washington Area modeling demonstration involved the application of model-based relative response factors (RRFs) to base year design values at each monitor to produce projected future year design values for 2009. The projected 2009 design values represent design values that should result from emission controls the 3 States and other states planned to have in place in 2009. As discussed in the Attainment TSD, the 2009 design values should be less than or equal to 84 parts per billion (ppb) at all monitoring stations to meet the attainment test. The SIP modeling predicts that in 2009, the Washington Area will not pass the attainment test because the design values at two monitors are projected to be 1 or 2 ppb over the 84 ppb standard.

In summary, the basic photochemical grid modeling presented in the 3 States' June 2007 SIP revisions meets EPA's guidelines and when used with the methods recommended in EPA's modeling guidance, is acceptable to EPA. However, when EPA's attainment test is applied to the modeling results, two of the seventeen monitors in the Washington Area had 2009 projected ozone design values predicted to exceed the 84 ppb standard with design values of 85 and 86 ppb. Thus, based solely upon consideration of EPA's modeled attainment test, the 3 States have not conclusively demonstrated that the Washington Area will reach attainment of the 1997 ozone NAAQS in the attainment year with the modeled emission reduction strategies committed to by the 3 States and neighboring states. Therefore, a weight of evidence (WOE) analysis was used by the 3 States and reviewed by EPA to demonstrate attainment of the 1997 ozone NAAQS in the Washington Area in accordance with EPA guidance.

B. Weight of Evidence Demonstration

EPA's modeling guidance describes how to use a photochemical grid model and additional analytical methods to complete a WOE analysis to estimate if emissions control strategies will demonstrate attainment of the 1997 ozone NAAQS. This modeling guidance recommends a WOE analysis beyond basic supplemental analyses if any future predicted design values fall within the range of 82 to 87 ppb (inclusive). Only four monitors in the Washington Area had model-predicted 2009 design values within this range. The rest of the monitors in the Washington Area had model-predicted design values of 81 ppb or less. A WOE analysis is a supporting analysis that helps to determine if the results of the photochemical modeling system are correctly (or not correctly) predicting future air quality. The WOE analysis presented in the 3 States' June 2007 SIP revisions describes the analyses performed, databases used, key assumptions and outcomes of each analysis, and why the evidence, viewed as a whole, supports a conclusion that the Washington Area will attain the 1997 ozone NAAQS despite the model prediction that some monitors' future design values exceed the levels of the 1997 ozone NAAQS.

EPA's review of the 3 States' WOE analysis in the Attainment TSD includes the following: (1) A comparison of model-predicted 2009 ozone design values to monitored design values for 2003–2011; (2) an analysis of recent ozone trends in the Washington Area; and (3) alternative methods for calculating the predicted 2009 ozone design value using modeling results. Further, in the Attainment TSD, EPA's analysis concurs with the 3 States' analysis of significant declining trends for the ozone design values, number of exceedances, ratio of exceedance days to days with a maximum ambient temperature over 90 degrees Fahrenheit and spatial extent of exceedances of the 1997 ozone NAAQS in the Washington Area.

As discussed in detail in the Attainment TSD, the 3 States' attainment demonstration also asserted an alternative baseline concentration could be used to demonstrate attainment. However, EPA determined in the Attainment TSD that the modeling would still not pass the basic modeled attainment test even with this alternative baseline value. Likewise, EPA determined in the Attainment TSD that the 3 States' recalculation of 2009 modeled ozone design values with a relative response factor calculated using the alternative methods presented in the 3 States' June 2007 SIP revisions reduced the modeled 2009 ozone design values slightly but not always below 85 ppb. The 3 States presented a range of predicted 2009 design values based upon the modeling in terms of maximum and minimum predicted 2009 design values. All of the minimum values were 82 ppb and lower but three of the maximum values were 85 ppb or above. The 3 States' methodology can yield up to nine separate 2009 predicted design values within the range. For all but one monitor, the average value for the nine separate 2009 predicted design values were below 85 ppb.

As discussed in the Attainment TSD, EPA concurs that the model over predicted 2009 ozone design values relative to the actual monitored 2009 to 2011 design values for most cases and always for those four monitors for which the modeled design values were in the range of 82 to 87 ppb when determined using EPA's preferred method for calculating the baseline design value and the relative response factor. The Attainment TSD notes that monitored ozone design values for each of the Washington Area monitors continued to decline and that each monitor continued to show attainment in 2010 and 2011.

In conclusion, in the Attainment TSD, EPA determined with the benefit of 2009 monitored design values that the model in the 3 States' June 2007 SIP revisions over predicted 2009 predicted

design values when compared to actual monitored design values since 2009. EPA has determined that the 3 States' photochemical grid modeling results predict a 2009 projected design value at most 2 ppb above the 1997 ozone NAAQS for the Washington Area. However, after taking into account WOE arguments regarding model over prediction of the 2009 monitored design values, recent ozone design value trends, and the Washington Area's attainment of the standard by 2010, EPA has determined that the 3 States' June 2007 SIP revisions demonstrate attainment of the ozone standard by the attainment date of June 2010 as discussed in detail in the Attainment TSD.

VI. Description of the Control Measures and Emission Reductions Included in the Plan for Attainment and Contingency Measures

A. RFP Measures

All of the measures which were used to demonstrate RFP in the June 2007 SIP revisions are part of the measures for obtaining the reductions needed for attainment. These are described in the TSD prepared for the approval of the RFP plan.[3] The RFP plan relied solely upon VOC reductions from these measures. *See* Table 6 in the June 30, 2011 notice of proposed rulemaking (NPR) (73 FR 38334, 38337) for the September 20, 2011 final rule approving the RFP plan. Some of these measures also provide reductions in NO_X emissions as well. These include most of the Federal nonroad and on-road mobile sources emissions standards and other on-road mobile sources controls such as enhanced motor vehicle inspection and maintenance (I/M) programs or the transportation control measures. Most of the contingency measure reductions to address any failure to achieve RFP were NO_X reductions. See Section II.E of the June 30, 2011 NPR (73 FR 38334, 38337–38338).

Most of the RFP plan measures also provide additional VOC reductions in the 2009 attainment year over and above those projected for the RFP year of 2008. These include Federal nonroad and on-road mobile sources emissions standards and area source rules such as those covering portable fuel containers, older vehicles and engines.

B. Additional Measures Beyond the RFP Plan

The attainment demonstration for the Washington Area relied upon some additional measures beyond those used to demonstrate RFP. Some of the RFP measures also provide reductions in NO_X emissions in addition to the VOC reductions credited towards the RFP requirement.

These included amending existing state regulations for area source categories to add emission standards for additional categories of consumer products and stricter standards for previously regulated products such as portable fuel containers. Also, the 3 States adopted regulations for industrial adhesives and sealants. Specifically, the attainment plan also relied upon the following new measures:

1. Regulations controlling VOC emissions from industrial adhesives and sealants in Maryland and Virginia conforming to the emission standards of a ''model rule'' prepared by the Ozone Transport Commissions (OTC);

2. Stricter standards representing a second ''phase'' of control by Virginia on VOC emissions from portable fuel containers conforming to those of a ''model rule'' prepared by the OTC; and

3. Emissions standards for additional classes of consumer products in a second ''phase'' of VOC control by Virginia on VOC emissions conforming to those of a ''model rule'' prepared by the OTC.

All of these rules have been fully approved by EPA into the applicable State SIP. *See* 76 FR 64237 (October 18, 2011) and 76 FR 51925 (August 19, 2011) (regarding Maryland adhesives and sealants rule), and 77 FR 3928 (January 26, 2012) and 76 FR 69214 (November 8, 2011) (regarding Virginia's adhesives and sealants rule, phase 2 portable fuel containers rule, and phase 2 consumer products rule).

Maryland also instituted a second phase of control on consumer products and portable fuel containers conforming to a ''model rule'' prepared by the OTC, but Maryland's rules required compliance before the end of calendar year 2008 and so are not rules beyond those for the RFP plan.[4]

In addition, some of emission reductions in the contingency plan for a failure to achieve adequate RFP by the end of calendar year 2008 provide part of the reductions for the attainment demonstration. These are emission reductions in the Washington Area scheduled to occur after 2008 but during 2009 such as the portable fuel containers rules (additional reductions occurring as a result of rule phases 1 and 2) and reductions from beyond RACT level control of NO_X sources. Table 1 provides a summary of the attainment plan's measures and the projected 2009 emission reductions.

TABLE 1—CONTROL MEASURES AND 2009 EMISSION REDUCTIONS IN THE WASHINGTON AREA

Source sector	Reductions (tons per day)	
	VOC	NO_X
Point Source Measures	0.00	128.76
Area Sources Measures	36.97	0.00
Nonroad Measures (NONROAD Model)	42.44	14.76
Locomotive Standards	0.06	2.74
On-road Measures (MOBILE Model)	7.17	37.63
Transportation Control Measures	0.18	0.45
Voluntary Bundle	0.19	0.30
Totals	87.01	184.64

[3] Refer to ''Technical Support Document—District of Columbia, Maryland, and Virginia; 2002 Base Year Emissions Inventory, Reasonable Further Progress Plan, Contingency Measures, Reasonably Available Control Measures, and Transportation Conformity Budgets for the Metropolitan Washington, DC 1997 8-Hour Ozone Moderate Nonattainment Area,'' dated May 26, 2011, a copy of which has been included in the docket for this proposed rule.

[4] The District of Columbia committed to adopting and submitting as a SIP revision regulations conforming to those of the ''model rules'' prepared by the OTC for these similar categories, but any emission reductions arising from these measures in the District were not applied to the emissions reductions upon which the attainment modeling and contingency measure demonstration relied.

D. Contingency Plan Reductions

Section 172(c)(9) of the CAA requires that SIPs contain additional contingency measures that will take effect without further action by the state or EPA if an area fails to attain an ambient air quality standard by the applicable attainment date or fails to achieve sufficient RFP.[5] The CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided initial guidance interpreting the contingency measure requirements of section 172(c)(9) in the April 16, 1992, General Preamble for Implementation of the Act. *See* 57 FR 13498, 13510 (April 16, 1992). In the April 16, 1992 initial guidance, EPA indicated that states with ozone nonattainment areas classified as moderate and above should include sufficient contingency measures so that, upon implementation of such measures, additional emission reductions of up to 3 percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. The state must show that the contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions.

EPA allows areas to use as contingency measures one or more Federal or local measures that are in place and provide reductions that are in excess to the attainment demonstration (or RFP plan). *See* 70 FR 71612, 71651 (November 29, 2005). Further, EPA believes that any additional reductions resulting from measures in the attainment strategy occurring after the applicable attainment date are clearly in excess to those needed for attainment. The modeling demonstration for the Washington Area was based upon projected emissions levels for the year 2009, and therefore reductions occurring after the end of calendar year 2009 would be excess to attainment needs.

The applicable attainment date for the Washington Area was June 15, 2010 based upon an effective date of designation under the 1997 ozone NAAQS of June 15, 2004. *See* 69 FR 28858 (April 30, 2004) and Table 1 in 40 CFR 51.903. The earliest EPA could have made a determination of attainment or failure to achieve attainment for the Washington Area was in June 2010; therefore, under the April 16, 1992 initial guidance, the earliest the ''year following the year the failure was indentified'' would have been in 2011. Therefore, EPA believes that reductions that occur after 2009 and as early as 2010 and as late as 2011 would qualify for contingency measures to address any failure to attain as satisfying both the excess to attainment and the timing of reductions requirements. Excess reductions from measures already in place meet the requirement that contingency measures be implemented with minimal further action by the state and with no additional rulemaking actions. For more information on contingency measures, see the April 16, 1992 General Preamble (57 FR 13512) and the November 29, 2005 Phase 2 Implementation Rule (70 FR 71612, 71650).

Because the Washington Area's attainment demonstration relies upon both VOC and NO_X reductions, acceptable contingency measures can include NO_X and VOC reductions.[6] For the failure to attain contingency requirement, the 3 States identified specific measures yielding 8.46 tons per day of VOC emissions reductions and 6.05 tons per day of NO_X emissions reductions. These reductions represent a 1.941 percent reduction in VOC emissions and a 1.069 percent reduction in NO_X emissions as shown in Table 2 of this document.

TABLE 2—CALCULATION OF VOC AND NO_X REDUCTIONS FOR ATTAINMENT CONTINGENCY

Item	Description	(Ozone season tons per day)	
		VOC	NO_X
(a)	2002 Base-Year Inventory	448.28	597.22
(b)	Non-creditable Emissions Reduction	12.45	31.61
(c)	Adjusted Base-Year Inventory = Item (a) minus Item (b)	435.83	565.61
(d)	1.941% VOC Reduction Required for Attainment Contingency = (1.941/100) times Item (c)	8.459	
(e)	1.069% NO_X Reduction Required for Attainment Contingency = (1.069/100) times Item (c)		6.046

The approved base year inventory for the Washington Area under the 1997 ozone NAAQS is from Table 2 of the NPR for the September 20, 2011 final rule. *See* 76 FR 38334, 38336 (June 30, 2011). In Table 3, the 3 States identified the following specific Federal and state measures as providing contingency measures.

TABLE 3—CONTINGENCY MEASURES FOR FAILURE TO ATTAIN

Contingency measure	(Ozone season tons per day)		
	Source category affected	VOC	NO_X
Tier 2 Motor Vehicle Emission Standards	On-road mobile	0	1.77
Phase I and Phase II Emissions Standards for Gasoline-Powered Non-Road Utility Engines.	Nonroad Mobile	1.49	0.04
Emissions Standards for Diesel-Powered Non-Road Utility Engines of 50 or More Horsepower.	Nonroad Mobile	0.39	3.28

[5] EPA has already approved contingency measures for failure to make RFP as discussed in section IV.B of this document. This proposed rule therefore only applies to approval of contingency measures needed to address the failure to attain by the applicable attainment date ''prong'' in section 179(c)(9).

[6] Such a result comports well with section 182(b)(1)(A) which requires a moderate area plan to provide for ''reductions in volatile organic compounds and oxides of nitrogen as necessary to attain'' the 1997 ozone NAAQS by the applicable attainment date for moderate areas.

TABLE 3—CONTINGENCY MEASURES FOR FAILURE TO ATTAIN—Continued

Contingency measure	(Ozone season tons per day)		
	Source category affected	VOC	NO_X
Emissions Standards for Spark Ignition Marine Engine	Nonroad Mobile	1.42	0
Emissions Standards for Large Spark Ignition Engines	Nonroad Mobile	0.54	0.96
Portable Fuel Containers Phase 1 and 2 Rules	Area	4.62	0
Total Reductions		8.46	6.05

The reductions from the Tier 2 motor vehicle emission standards occurred between 2009 and 2010. The reductions from the other identified measures occurred between 2009 and 2011. The 3 States have implemented the contingency reductions from the on-road mobile sources through establishment of a 2010 MVEB for NO_X. Even though additional reductions in VOC emissions from on-road mobile sources may have occurred between 2009 and 2010, the States have elected not to count these towards the contingency requirement. Thus, the 2010 NO_X MVEB reflects only a reduction in NO_X emissions. EPA believes that all of these measures achieve additional reductions beyond those needed to offset growth in activity levels as new motor vehicles, nonroad vehicle and locomotive engines, or portable fuel containers replace older items which either were subject to less stringent emissions standards or no emission standards regulations.

VII. Transportation Conformity Budgets

Transportation conformity is required by CAA section 176(c). EPA's conformity rule requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedure for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of a national ambient air quality standard such as the 1997 ozone NAAQS. The criteria by which EPA determines whether a SIP's MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). The process for determining the adequacy of submitted SIP budgets is described in 40 CFR 93.118(f).

For an attainment demonstration states must establish VOC and NO_X MVEBs for the attainment year and submit these MVEBs to EPA for approval. Upon adequacy determination or approval by EPA, states must conduct transportation conformity analysis for their Transportation Improvement Programs (TIPs) and long range transportation plans to ensure highway vehicle emissions will not exceed applicable MVEBs. Failure to demonstrate such transportation conformity results in freezing of Federal highway funds and all Federal highway projects in the lapsed area. The States discuss transportation conformity in Section 8.0 of the June 2007 SIP revisions. The States describe their methods and provide detailed input parameters used in modeling the inventories in Appendices E1 and E2 of the June 2007 SIP revisions. In the Washington Area, the Metropolitan Washington Air Quality Committee (MWAQC) consulted with the Transportation Planning Board (TPB) to establish mobile source emissions budgets. In addition to the 2009 MVEBs required for the attainment year, the 3 States have implemented the NO_X contingency reductions from on-road mobile sources by establishing a 2010 MVEB for NO_X.

The Washington Area MVEBs for the attainment demonstration and contingency measures are based on projected 2009 and 2010 mobile source emissions, accounting for all mobile control measures and transportation control measures. As discussed in section II. C herein, EPA has already determined these MVEBs are adequate. *See* 78 FR 9044. The MVEBs for the 2009 attainment demonstration and the 2010 contingency plan NO_X MVEBs are shown in Table 4.

TABLE 4—THE WASHINGTON AREA MVEBS FOR THE 2009 ATTAINMENT PLAN AND 2010 CONTINGENCY PLAN

Budget type	Budget year	MVEBs	
		VOC (tons per day)	NO_X (tons per day)
Attainment Demonstration	2009	66.5	146.1
Contingency Plan	2010	N/A	144.3

VIII. Proposed Action

EPA is proposing to approve the 1997 ozone NAAQS attainment demonstration, included in the 3 States' June 2007 SIP revisions, as demonstrating attainment for the Washington Area by the applicable attainment date of June 15, 2010. On February 28, 2012 (77 FR 11739), EPA determined that the Washington Area attained the 1997 ozone NAAQS by its attainment date. EPA is also proposing to approve the contingency measures plan from the June 2007 SIP revisions and the MVEBs associated with the attainment demonstration and contingency measures. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IX. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this proposed rule, pertaining to the 1997 8-hour ozone attainment demonstration, contingency measures and MVEBs for the Washington Area submitted by the State of Maryland, the District of Columbia and the Commonwealth of Virginia on June 4, 2007, June 12, 2007 and June 12, 2007 respectively, 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 states, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 13, 2013.

W. C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–06421 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0582; FRL–9792–6]

Approval and Promulgation of Implementation Plans; Tennessee; 110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve, and in the alternative, conditionally approve in part, the State Implementation Plan (SIP) revision, submitted by the State of Tennessee, through the Department of Environment and Conservation, demonstrating that the State meets the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 2008 Lead national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. Tennessee certified that the Tennessee SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Tennessee (hereafter referred to as an ''infrastructure submission''). EPA is proposing to conditionally approve portions of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) related to prevention of significant deterioration (PSD) requirements, and a portion of section 110(a)(2)(E)(ii) of Tennessee's October 19, 2009, infrastructure submission. The current Tennessee SIP does not include provisions to comply with these requirements; however, Tennessee has committed to submit SIP revisions to address these deficiencies. EPA is also proposing, in the alternative, to approve the entire Tennessee SIP, including the sections described above, as meeting the applicable infrastructure requirements for the 2008 Lead NAAQS. Should Tennessee submit, and EPA approve, the necessary provisions to correct the identified infrastructure SIP deficiencies prior to EPA taking final action on the October 19, 2009, infrastructure submission, EPA anticipates finalizing full approval of the infrastructure SIP. If EPA does not approve these necessary provisions prior to taking final action on the October 19, 2009, infrastructure submission, EPA anticipates finalizing conditional approvals for those elements for which the Tennessee infrastructure SIP remains deficient.

DATES: Written comments must be received on or before April 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0582, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2012–0582,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012–0582. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9152. Mr. Farngalo can be reached via electronic mail at *farngalo.zuri@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

On October 5, 1978, EPA promulgated primary and secondary NAAQS for Lead under section 109 of the Act. *See* 43 FR 46246. Both primary and secondary standards were set at a level of 1.5 micrograms per cubic meter (μg/m^3), measured as Lead in total suspended particulate matter (Pb-TSP), not to be exceeded by the maximum arithmetic mean concentration averaged over a calendar quarter. This standard was based on the ''1977 Air Quality Criteria for Lead'' guidance document (USEPA, August 7, 1977). On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the primary and secondary Lead NAAQS. The revised primary and secondary Lead NAAQS were revised to 0.15 μg/m^3. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than October 15, 2011, for the 2008 Lead NAAQS. Tennessee submitted its infrastructure SIP for the 2008 Lead NAAQS on October 19, 2009.[1]

Today's action is proposing to approve Tennessee's infrastructure submission for the 2008 Lead NAAQS. In addition, EPA is also proposing, in the alternative, to conditionally approve a subset of the sections required as part of the State's 2008 Lead infrastructure SIP. Specifically, EPA is also proposing, in the alternative, to conditionally approve, Tennessee's infrastructure submission for portions of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) as they relate to a 2010 PSD rulemaking for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$).[2] In addition, EPA is also proposing to conditionally approve, in the alternative, the portion of section 110(a)(2)(E)(ii) pertaining to CAA section 128(a)(1) significant portion of income requirements. Today's action is not proposing approval of any specific rule; but rather, proposing that Tennessee's already approved SIP meets—or in the case of the elements proposed for conditional approval, will meet, with changes—certain CAA requirements.

II. What elements are required under sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 Lead NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with the 1978 Lead NAAQS.

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are listed below[3]

[1] On June 27, 2012, the Center for Biological Diversity and the Center for Environmental Health sued EPA for allegedly failing to take certain mandatory actions related to the ''infrastructure'' requirements associated with the 2008 Lead NAAQS. Included with this complaint was EPA's alleged failure to take action on Tennessee's 2008 Lead infrastructure SIP within the applicable statutory timeframe.

[2] See the final rulemaking entitled ''Final Rule Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant monitoring Concentration (SMC): Final Rule'' (75 FR 64864).

[3] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements

Continued

and in EPA's October 14, 2011, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS).''

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement, PSD and new source review (NSR).[4]
- 110(a)(2)(D): Interstate and international transport provisions.
- 110(a)(2)(E): Adequate personnel, funding, and authority.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency episodes.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

III. Scope of Infrastructure SIPs

This rulemaking will not cover four substantive issues that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources (SSM), that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (director's discretion); (iii) existing provisions for minor source NSR programs that may be inconsistent with the requirements of the CAA and EPA's regulations that pertain to such programs (minor source NSR); and, (iv) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (NSR Reform).

Instead, EPA has indicated that it has other authority to address any such existing SIP defects in other rulemakings, as appropriate. A detailed rationale for why these four substantive issues are not part of the scope of infrastructure SIP rulemakings can be found in EPA's June 11, 2012, proposed rule entitled, ''Approval and Promulgation of Implementation Plans; Tennessee 110(a)(1) and (2) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards'' in the section entitled, ''Scope of Infrastructure SIPs'' (*See* 77 FR 34306). It can also be found in EPA's August 22, 2012, proposed rule entitled, ''Approval and Promulgation of Implementation Plans; Tennessee 110(a)(1) and (2) Infrastructure Requirements for the 2008 8-Hour Ozone Matter National Ambient Air Quality Standards'' in the section entitled, ''Scope of Infrastructure SIPs.'' *See* 77 FR 50651.

IV. What is EPA's analysis of how Tennessee addressed the elements of sections 110(a)(1) and (2) ''Infrastructure'' provisions?

The Tennessee infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission limits and other control measures:* Several regulations within Tennessee's SIP provide Tennessee Air Pollution Control Regulations relevant to air quality control regulations. The regulations described below have been federally approved in the Tennessee SIP and include enforceable emission limitations and other control measures. Chapters 1200–3–1, *General Provisions;* 1200–3–3, *Air Quality Standards;* 1200–3–22, *Lead Emission Standards;* and 1200–3–8, *Fugitive Dust Control Regulations* of the Tennessee SIP establish emission limits for lead and address the required control measures, means, and techniques for compliance with the 2008 Lead NAAQS. EPA has made the preliminary determination that the provisions contained in these chapters and Tennessee's practices are adequate to protect the 2008 Lead NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during SSM of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency plans to address such state regulations in the future. In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) *Ambient air quality monitoring/data system:* Tennessee's Air Pollution Control Requirements, Chapter 1200–3–12, *Procedures for Ambient Sampling and Analysis,* of the Tennessee SIP, along with the Tennessee Network Description and Ambient Air Monitoring Network Plan, provide for an ambient air quality monitoring system in the State. Annually, EPA approves the ambient air monitoring network plan for the state agencies. On July 9, 2012, Tennessee submitted its plan to EPA. On September 21, 2012, EPA approved Tennessee's monitoring network plan. Tennessee's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2012–0582. EPA has made the preliminary determination that Tennessee's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 2008 Lead NAAQS.

3. 110(a)(2)(C) *Program for enforcement of control measures including review of proposed new sources.* In this action, EPA is proposing to approve, and in the alternative, conditionally approve in part, Tennessee's infrastructure SIP for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. Chapter 1200–3–9, *Construction and Operating Permits,* of Tennessee's SIP pertains to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as nonattainment, attainment or unclassifiable. Chapter 1200–3–22, *Lead Emission Standards,* of Tennessee's SIP, published on August 12, 1985, specifies requirements for

of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[4] This rulemaking only addresses requirements for this element as they relate to attainment areas.

Reasonably Available Control Technology for significant existing sources of Lead (October 29, 2001, 66 FR 44632).

In addition to these requirements, there are four other revisions to the Tennessee SIP that that are necessary to meet the requirements of infrastructure element 110(a)(2)(C). These four revisions are related to 1) the Ozone Implementation NSR Update (November 29, 2005, 70 FR 71612); 2) the ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (June 3, 2010, 75 FR 31514); 3) the NSR $PM_{2.5}$ Rule (May 16, 2008, 73 FR 28321); [5] and 4) the final rulemaking entitled ''Final Rule Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant monitoring Concentration (SMC): Final Rule'' hereafter referred to as ''$PM_{2.5}$ PSD Increment-SILs-SMC Rule'' (75 FR 64864).

The first necessary revision to the Tennessee SIP (Ozone Implementation NSR Update revision) was submitted by TDEC on May 28, 2009. This revision modified provisions of the State's implementation plan at Chapter 1200–3–9, *Construction and Operating Permits,* in order to meet the applicable requirements of the Ozone Implementation NSR Update. EPA approved this revision on February 7, 2012. *See* 77 FR 6016.

The second necessary revision pertains to changes in the PSD program that were promulgated in the Greenhouse Gas (GHG) Tailoring Rule. TDEC submitted a revision to EPA on January 11, 2012, to address these changes. The revision establishes appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Tennessee's PSD permitting requirements for their GHG emissions, and thereby addresses the thresholds for GHG permitting applicability in Tennessee. EPA approved this revision on February 28, 2012. *See* 77 FR 11744.

The third necessary revision pertains to the adoption of PSD and Nonattainment New Source Review (NNSR) requirements related to the implementation of the NSR $PM_{2.5}$ Rule. On July 29, 2011, TDEC submitted revisions to its PSD/NSR regulations for EPA approval to revise the Tennessee SIP in Chapter 1200–03–09–.01, *Construction Permits.* This revision addresses the required federal PSD and NNSR permitting provisions governing the implementation of the NSR program for $PM_{2.5}$ as promulgated in the NSR $PM_{2.5}$ Rule. *See* 73 FR 28321 (May 16, 2008). EPA finalized approval of Tennessee's July 29, 2011, submittal on July 30, 2012. *See* 77 FR 44481.

The fourth necessary revision pertains to the increments portion of the $PM_{2.5}$ PSD Increment-SILs-SMC Rule. This rule requires states to regulate the construction and modification of any major stationary source locating in an attainment or unclassifiable area, where the source's emissions may cause or contribute to a violation of the NAAQS. Currently, Tennessee's SIP does not contain provisions to address this requirement. On October 4, 2012, Tennessee submitted a letter to EPA with a schedule and commitment to approve the necessary specific enforceable SIP revision to address its SIP deficiencies related to the October 20, 2010, PSD $PM_{2.5}$ Increments, SILs and SMC Rule increments requirements. The Tennessee letter, which commits the State to submitting this revision to EPA within one year, can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2012–0582. Based on Tennessee's commitment, EPA is proposing to conditionally approve the portion of section 110(a)(2)(C) related to the increments requirements of the $PM_{2.5}$ Increments, SILs and SMC Rule consistent with section 110(k)(4) of the Act. Failure by Tennessee to provide this revision by March 6, 2014 would automatically result in the conditional approval converting to a disapproval. Should that occur, EPA would provide the public with notice of such a disapproval in the **Federal Register**.

As described above, EPA is also proposing, in the alternative, to approve section 110(a)(2)(C) related to the increments requirements of the $PM_{2.5}$ Increments, SILs and SMC Rule. In this action, EPA is proposing to approve in part, and in the alternative conditionally approve in part, Tennessee's infrastructure SIP for the 2008 lead NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. Minor sources are subject to the statutory requirements in section 110(a)(2)(C) of the CAA which requires '' * * * regulations of the modification and construction of any stationary source * * * as necessary to assure that the NAAQS are achieved.'' These programs should be established in each state within 3 years of the promulgation of a new revised NAAQS, and may be particularly important because virtually all sources of lead are minor sources. EPA has made the preliminary determination that Tennessee's SIP (with the exception of the requirements related to $PM_{2.5}$ increments) and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 2008 lead NAAQS.

Should Tennessee submit its revision to address the applicable portions of this Rule before EPA finalizes a conditional approval this portion of section 110(a)(2)(C), EPA intends finalize full approval for this section.[6] In the event, EPA does not approve the increments portion of Tennessee PSD $PM_{2.5}$ Increments, SILs and SMC Rule revision into the SIP prior to final action on the State's infrastructure SIP, EPA intends to finalize a conditional approve of this section 110(a)(2)(C) requirements.

Collectively, the above-described SIP revisions address requisite requirements of infrastructure element 110(a)(2)(C)

[5] On January 4, 2013, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *EPA,* No. 08–1250, 2013 WL 45653 (D.C. Cir., filed July 15, 2008) (consolidated with 09–1102, 11–1430), issued a judgment that remanded EPA's 2007 and 2008 rules implementing the 1997 $PM_{2.5}$ NAAQS. The court ordered EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' *Id.* at * 8. Subpart 4 of Part D, Title 1 of the CAA establishes additional provisions for particulate matter nonattainment areas.

The 2008 implementation rule addressed by the court decision, ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$),'' 73 FR 28321 (May 16, 2008), promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas (nonattainment NSR) and attainment/unclassifiable areas (PSD). As the requirements of Subpart 4 only pertain to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated in the 2008 rule in order to comply with the court's decision. Accordingly, EPA's approval in part and conditional approval in part of Tennessee's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion.

The court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the Act to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due 3 years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

[6] Full approval of this section would require EPA to take final action approving the increment portions of Tennessee's PSD $PM_{2.5}$ Increments, SILs and SMC Rule revision prior to, or concurrently with, final action to approve section 110(a)(2)(C).

and are necessary for today's rulemaking to propose approval of infrastructure SIP element 110(a)(2)(C). EPA also notes that today's action is not proposing to approve or disapprove the State's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

4. 110(a)(2)(D)(i) and (ii) *Interstate and International transport provisions:* EPA is proposing to approve, and in the alternative conditionally approve in part, Tennessee's infrastructure SIP for the 2008 lead NAAQS with respect to section 110(a)(2)(D)(i) to include a program in the SIP that regulates the modification and construction of any stationary source subject to PSD as necessary to assure that the NAAQS are achieved. Specifically, as mentioned above, in this action, EPA is proposing to approve in part and in the alternative, conditionally approve in part Tennessee's infrastructure SIP for the 2008 Lead NAAQS related to the $PM_{2.5}$ PSD increments and with respect to the general requirement in section 110(a)(2)(D)(i) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. Minor sources are subject to the statutory requirements in section 110(a)(2)(C) of the CAA which requires "* * * regulations of the modification and construction of any stationary source * * * as necessary to assure that the NAAQS are achieved." These programs should be established in each state within 3 years of the promulgation of a new revised NAAQS, and may be particularly important because virtually all sources of lead are minor sources.

Chapter 1200–9–.01(5) *Growth Policy;* 1200–3–9–.01(4) *Prevention of Significant Deterioration of Air Quality*; and Chapter 1200–3–22 *Lead Emission* of the Tennessee SIP outline how the State will notify neighboring states of potential impacts from new or modified sources. Section 110(a)(2)(D)(i) provides for infrastructure SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. The preceding requirements, from subsection 110(a)(2)(D)(i)(I), respectively refer to what may be called prongs 1 and 2. The physical properties of lead prevent lead emission from experiencing that same travel or formation phenomena as $PM_{2.5}$ and ozone for interstate transport as outlined in prongs 1 and 2. More specifically, there is a sharp decrease in the lead concentrations, at least in the coarse fraction, as the distance from a lead source increases. EPA believes that the requirements of prongs 1 and 2 can be satisfied through a state's assessment as to whether a lead source located within its State in close proximity to a state border has emissions that contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in the neighboring state.[7] Tennessee has two lead sources that have emissions of lead over 0.5 tons per year (tpy). Both sources are located well beyond 2 miles from the State border.[8] Therefore, EPA has made the preliminary determination that Tennessee's SIP meets the requirements of section 110(a)(2)(D)(i)(I).

Section 110(a)(2)(D)(i)(II), as it relates to PSD requirements, (referred to as prong 3) may be met by the State's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to PSD and (if the state contains a nonattainment area for the relevant pollutant) NNSR programs that implement the 2008 Lead NAAQS.

As discussed above in the discussion for the PSD requirements of section 110(a)(2)(C), Tennessee's SIP currently contains three of the four necessary provisions for the State's PSD program.[9] On October 4, 2012, Tennessee submitted a letter to EPA with a schedule and commitment to provide the necessary SIP revision to address its SIP deficiencies related to the October 20, 2010, PSD $PM_{2.5}$ Increments, SILs, and SMC Rule requirements. Based on Tennessee's commitment, EPA is proposing to conditionally approve the portion section 110(a)(2)(D)(i)(II), related to the increments requirements of the $PM_{2.5}$ Increments, SILs and SMC Rule consistent with section 110(k)(4) of the Act. EPA's proposed conditional of prong 3, if finalized, would obligate Tennessee to provide the SIP revision to address the increment portion of the PSD $PM_{2.5}$ Increments, SILs and SMC Rule by March 6, 2014. Failure by Tennessee to provide this revision by that date would automatically result in such a conditional approval converting to a disapproval. Should that occur, EPA would provide the public with notice of such a disapproval in the **Federal Register**.

EPA is also today proposing full approval of prong 3. In the event that Tennessee submits a revision to address increments portion of the PSD $PM_{2.5}$ Increments, SILs and SMC Rule, and EPA approves that submission prior to finalizing this infrastructure SIP action, EPA believes Tennessee's 2008 Lead infrastructure SIP for prong 3 of section 110(a)(2)(D)(i) will then be fully approvable.

With regard to section 110(a)(2)(D)(i)(II), the visibility sub-element, referred to as prong 4, significant impacts from lead emissions from stationary sources are expected to be limited to short distances from the source. Lead stationary sources in Tennessee are located at distances from Class I areas such that visibility impacts are negligible. Where a state's regional haze SIP has been approved as meeting all current obligations, EPA has determined that such an approved plan demonstrates compliance with the prong 4 requirements. EPA completed a limited approval and limited disapproval of Tennessee's regional haze SIP,[10] with the exception of the

[7] For example EPA's experience with the initial lead designations suggest that sources that emit less than 0.5 tpy or that are located more than two miles from the state border generally appear unlikely to contribute significantly to the nonattainment in another state.

[8] The first facility, Exide Technologies, is located at 364 Exide Drive in Bristol Tennessee, which is approximately 5 miles from the nearest border. The second facility is Gerdau Ameristeel, located at 4615 Coster Road NE in Knoxville, Tennessee, which is approximately 100 miles from the nearest border.

[9] (1) EPA's approval of Tennessee's PSD/NSR regulations which address the Ozone Implementation NSR Update requirements, (2) EPA's approval of Tennessee's PSD GHG Tailoring Rule revisions which addresses the thresholds for GHG permitting applicability in Tennessee, and (3) EPA's approval of Tennessee's NSR $PM_{2.5}$ Rule, which adopts required federal PSD and NNSR permitting provisions governing the implementation of the NSR program for $PM_{2.5}$ as promulgated in the NSR $PM_{2.5}$ Rule.

For additional detailed information on these requirements, see section 3 above.

[10] Refer to EPA's proposed rulemaking entitled "Approval and Promulgation of Implementation Plans: Region 4 States; 110(a)(2)(D)(i)(II) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards," for more detailed information in support of EPA's proposed approval of

best available retrofit technology (BART) for the Eastman Chemical Company portion, on April, 24, 2012. *See* 77 FR 24392. On November 27, 2012, EPA approved the Eastman Chemical Company BART portion of Tennessee's regional haze submittal. *See* 77 FR 70689.

With regard to the requirements of section 110(a)(2)(D)(ii), Tennessee does not have any pending obligation under sections 115 and 126 of the CAA. With the exception of section 110(a)(2)(D)(i)(II), related to PSD, EPA has made the preliminary determination that Tennessee's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2008 lead NAAQS. For the reasons described above, EPA is proposing full approval of section 110(a)(2)(D), and in the alternative, conditional approval of section 110(a)(2)(D)(i) prong 3 related to the increment requirements of the PSD $PM_{2.5}$ Increments, SILs and SMC Rule.

5. 110(a)(2)(E) *Adequate resources:* Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the State comply with the requirements respecting State Boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve Tennessee's SIP as meeting the requirements of sections 110(a)(2)(E)(i) and (iii). With respect to section 110(a)(2)(E)(ii) (regarding state boards), EPA is proposing to approve, and in the alternative conditionally approve in part, this sub-element. EPA's rationale for today's proposals respecting each section of 110(a)(2)(E) is described in turn below.

With respect to sections 110(a)(2)(E)(i) and (iii), TDEC, through the Tennessee Air Pollution Control Board, is responsible for promulgating rules and regulations for the NAAQS, emissions standards general policies, a system of permits, fee schedules for the review of plans, and other planning needs. As evidence of the adequacy of TDEC's resources regarding sections 110(a)(2)(E)(i) and (iii), EPA submitted a letter to Tennessee on April 24, 2012, outlining 105 grant commitments and current status of these commitments for fiscal year 2011. The letter EPA submitted to Tennessee can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2012–0582. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. There were no outstanding issues in relation to the SIP for fiscal year 2011, therefore, Tennessee's grants were finalized and closed out. EPA has made the preliminary determination that Tennessee has adequate resources for implementation of the 2008 Lead NAAQS.

With respect to section 110(a)(2)(E)(ii), EPA is proposing to approve, and in the alternative, to conditionally approve in part Tennessee's infrastructure SIP as to this requirement. Section 110(a)(2)(E)(ii) provides that infrastructure SIPs must require compliance with section 128 of CAA requirements respecting State boards. Section 128, in turn, provides at subsection (a)(1) that each SIP shall require that any board or body which approves permits or enforcement orders shall be subject to the described public interest and income restrictions therein. Subsection 128(a)(2) requires that any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements.

EPA believes the Tennessee SIP currently meets the requirements of section 110(a)(2)(E)(ii) with respect to section 128(a)(2) obligations, but does not meet the section 128(a)(1) obligations. To address section 128(a)(2) requirements, the provisions of Tennessee Rule Chapter 1200–3–17 have been incorporated into the Tennessee SIP. *See* 67 FR 55322. Regarding section 128(a)(1) requirements, Tennessee previously committed to adopt specific enforceable measures into its SIP within one year to address the applicable portions of section 128(a)(1) for the infrastructure SIP of another NAAQS. Tennessee's section 128(a)(1) commitment letter to EPA, dated March 28, 2012, can be accessed at *www.regulations.gov* using docket ID No. EPA–R04–OAR–2011–0353. Based upon that commitment, on July 23, 2012, EPA took final action to conditionally approve infrastructure sub-element 110(a)(2)(E)(ii) regarding section 128(a)(1) requirements for purposes of the 1997 8-hour Ozone NAAQS. *See* 77 FR 42997. EPA is today proposing to conditionally approve Tennessee's 2008 Lead infrastructure SIP for section 110(a)(2)(E)(ii) related to the section 128(a)(1) requirements based upon the State's earlier commitment to adopt the specific enforceable measures by July 23, 2013.[11] Failure by the State to adopt these provisions and submit them to EPA for incorporation into the SIP by July 23, 2013, would result in today's conditional approval being treated as a disapproval. Should that occur, EPA would provide the public with notice of such a disapproval in the **Federal Register**.

As with the conditional approvals proposed in this action, EPA is also proposing, in the alternative, to fully approve infrastructure section 110(a)(2)(E)(ii) regarding section 128(a)(1) requirements. In the event that Tennessee submits a revision to address the section 128(a)(1) requirements, and EPA approves that submission prior to finalizing this infrastructure SIP action, EPA believes Tennessee's 2008 Lead infrastructure SIP for section 110(a)(2)(E)(ii) will then be fully approvable. EPA has made the preliminary determination that Tennessee, once the above described changes have been incorporated into the SIP, will have adequate resources for implementation of 2008 Lead NAAQS.

6. 110(a)(2)(F) *Stationary source monitoring system:* Tennessee's infrastructure submission describes how the State has established requirements for compliance testing by emissions sampling and analysis, and for emissions and operation monitoring to ensure the quality of data in the State. TDEC uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. These requirements are provided in Chapter 1200–3–10, *Required Sampling, Recording and Reporting,* of the Tennessee SIP.

Additionally, Tennessee is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The

Tennessee's 2008 lead infrastructure submission as it relates to visibility. *See* 78 FR 11805 (February 20, 2013).

[11] July 23, 2012, is one year from the approval date of EPA's final rulemaking to conditionally approve sub-section 110(a)(2)(E)(ii) regarding section 128(a)(1) for purposes of the 1997 8-hour Ozone NAAQS.

AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—nitrogen oxides, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Tennessee made its latest update to the NEI on September 11, 2012. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html*. EPA has made the preliminary determination that Tennessee's SIP and practices are adequate for the stationary source monitoring systems related to the 2008 lead NAAQS.

7. 110(a)(2)(G) *Emergency power:* Chapter 1200–3–15, *Emergency Episode Requirements,* of the Tennessee SIP identifies air pollution emergency episodes and preplanned abatement strategies. These criteria have previously been approved by EPA. EPA has made the preliminary determination that Tennessee's SIP and practices are adequate for emergency powers related to the 2008 Lead NAAQS.

8. 110(a)(2)(H) *Future SIP revisions:* As previously discussed, TDEC is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS. Tennessee has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS.

Tennessee has one area, Bristol, TN, that is designated as nonattainment for the 2008 Lead NAAQS. On August 29, 2012, EPA finalized a clean data determination for Bristol, TN. *See* 77 FR 52232. This determination of attaining data is based upon complete, quality-assured and certified ambient air monitoring data for the 2009–2011 period showing that the Area has monitored attainment of the 2008 Lead NAAQS. Additionally, as a result of this determination, the requirements for the Area to submit an attainment demonstration, together with reasonably available control measures, a reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines are suspended for so long as the Area continues to attain the 2008 Lead NAAQS. EPA has made the preliminary determination that Tennessee's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 2008 Lead NAAQS when necessary.

9. 110(a)(2)(J). EPA is proposing to approve in part, and conditionally approve in part to approve Tennessee's infrastructure SIP for the 2008 lead NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable consultation requirements of section 121, the public notification requirements of section 127; and the PSD and visibility protection requirements of part C of the Act.

110(a)(2)(J) (121 consultation) Consultation with government officials: Chapter 1200–3–9 *Construction and Operating Permits,* as well as the Regional Haze Implementation Plan (which allows for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. Tennessee adopted state-wide consultation procedures for the implementation of transportation conformity. These consultation procedures include considerations associated with the development of mobile inventories for SIPs. Implementation of transportation conformity as outlined in the consultation procedures requires TDEC to consult with federal, state and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. EPA approved Tennessee's consultation procedures on May 16, 2003 (68 FR 26492). While transportation conformity requirements do not apply for lead because of the nature of the standard, the consultation procedures that TDEC has in place to implement transportation conformity requirements provides evidence of the State's ability to consult with other governmental agencies on air quality issues. EPA has made the preliminary determination that Tennessee's SIP and practices adequately demonstrate consultation with government officials related to the 2008 Lead NAAQS when necessary.

110(a)(2)(J) (127 public notification) Public notification: Chapter 1200–3–15, *Emergency Episode Requirements,* requires that TDEC notify the public of any air pollution episode or NAAQS violation. EPA has made the preliminary determination that Tennessee's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2008 Lead NAAQS when necessary.

110(a)(2)(J) (Part C) PSD and visibility protection: In this action, EPA is proposing to approve in part, and conditionally approve in part Tennessee's infrastructure SIP for the 2008 lead NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. Chapter 1200–3–9, *Construction and Operating Permits,* of Tennessee's SIP pertains to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as nonattainment, attainment or unclassifiable. Chapter 1200–3–22, *Lead Emission Standards,* of Tennessee's SIP, published on August 12, 1985, specifies requirements for Reasonably Available Control Technology for significant existing sources of lead (October 29, 2001, 66 FR 44632). There are four other revisions to the Tennessee SIP that are necessary to meet the requirements of infrastructure element 110(a)(2)(C). These four revisions are related to the Ozone Implementation NSR Update (November 29, 2005, 70 FR 71612), the ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (June 3, 2010, 75 FR 31514), the NSR $PM_{2.5}$ Rule (May 16, 2008, 73 FR 28321), and $PM_{2.5}$ PSD Increment-SILs-SMC Rule (October 20, 2010, 75 FR 64864).

Tennessee's SIP contains provisions for the State's PSD program for three of the four program requirements.[12] On October 4, 2012, Tennessee submitted a letter to EPA with a schedule and commitment to provide the necessary SIP revision to address its SIP deficiencies related to the October 20, 2010, final rulemaking related to PSD $PM_{2.5}$ Increments, SILs, and SMC Rule requirements. Based on Tennessee's commitment, EPA is proposing to conditionally approve section

[12] (1) EPA's approval of Tennessee's PSD/NSR regulations which address the Ozone Implementation NSR Update requirements, (2) EPA's approval of Tennessee's PSD GHG Tailoring Rule revisions which addresses the thresholds for GHG permitting applicability in Tennessee, and (3) EPA's approval of Tennessee's NSR $PM_{2.5}$ Rule, which adopts required federal PSD and NNSR permitting provisions governing the implementation of the NSR program for $PM_{2.5}$ as promulgated in the NSR $PM_{2.5}$ Rule.

For additional detailed information on these requirements, see section 3 above.

110(a)(2)(J), related to PSD consistent with section 110(k)(4) of the Act.

These SIP revisions [13] address requisite requirements of infrastructure element 110(a)(2)(J) and are necessary for today's rulemaking to propose to approve, in part, and conditionally approve, in part, infrastructure SIP element 110(a)(2)(J). EPA also notes that today's action is not proposing to approve or disapprove the State's existing minor NSR program itself to the extent that it is inconsistent with EPA's regulations governing this program. EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. EPA intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. The statutory requirements of section 110(a)(2)(J) provide for considerable flexibility in designing minor NSR programs, and EPA believes it may be time to revisit the regulatory requirements for this program to give the states an appropriate level of flexibility to design a program that meets their particular air quality concerns, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources.

In this action, EPA is also proposing to conditionally approve Tennessee's infrastructure SIP for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. Minor sources are subject to the statutory requirements in section 110(a)(2)(C) of the CAA which requires ''* * * regulations of the modification and construction of any stationary source * * * as necessary to assure that the NAAQS are achieved.'' These programs should be established in each state within 3 years of the promulgation of a new revised NAAQS, and may be particularly important because virtually all sources of lead are minor sources.

EPA has made the preliminary determination that Tennessee's SIP and practices are adequate for program enforcement of control measures including review of proposed new sources related to the 2008 lead NAAQS.

With regard to the applicable requirements for visibility protection, EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, EPA finds that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. This would be the case even in the event a secondary $PM_{2.5}$ NAAQS for visibility is established, because this NAAQS would not affect visibility requirements under part C. Tennessee has submitted SIP revisions for approval to satisfy the requirements of the CAA Section 169A and 169B, and the regional haze and best available retrofit technology rules contained in 40 CFR 51.308. On April 24, 2012, EPA published a final rulemaking regarding Tennessee's regional haze program. *See* 77 FR 24392. On November 27, 2012, EPA approved the Eastman Chemical Company BART portion of Tennessee's regional haze submittal. *See* 77 FR 70689. EPA has made the preliminary determination that Tennessee's SIP and practices adequately demonstrate the State's ability to implement PSD programs and to provide for visibility protection related to the 2008 Lead NAAQS when necessary.

10. 110(a)(2)(K) *Air quality and modeling/data:* Chapter 1200–3–9–.01(4)(k), *Air Quality Models,* of the Tennessee SIP specify that required air modeling be conducted in accordance with 40 CFR Part 51, Appendix W ''Guideline on Air Quality Models,'' as incorporated into the Tennessee SIP. These standards demonstrate that Tennessee has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the Lead NAAQS. Additionally, Tennessee supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the Lead NAAQS, for the southeastern states. Taken as a whole, Tennessee's air quality regulations and practices demonstrate that TDEC has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the Lead NAAQS. EPA has made the preliminary determination that Tennessee's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2008 Lead NAAQS when necessary.

11. 110(a)(2)(L) *Permitting fees:* As discussed above, Tennessee's SIP provides for the review of construction permits. Permitting fees in Tennessee are collected through the State's federally-approved title V fees program and consistent with Chapter 1200–03–26-.02, *Permit-Related Fees,* of the Tennessee Code. EPA has made the preliminary determination that Tennessee's SIP and practices adequately provide for permitting fees related to the 2008 Lead NAAQS when necessary.

12. 110(a)(2)(M) *Consultation/participation by affected local entities:* Chapter 1200–3–9–.01(4)(k), *Public Participation,* of the Tennessee SIP requires that TDEC notify the public of an application, preliminary determination, the activity or activities involved in the permit action, any emissions change associated with any permit modification, and the opportunity for comment prior to making a final permitting decision. By way of example, TDEC has recently worked closely with local political subdivisions during the development of its Transportation Conformity SIP, Regional Haze Implementation Plan, and Early Action Compacts. EPA has made the preliminary determination that Tennessee's SIP and practices adequately demonstrate consultation with affected local entities related to the 2008 Lead NAAQS when necessary.

V. Proposed Action

EPA is proposing alternative actions to (1) approve in full and (2) approve in part and conditionally approve in part. With the exception of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) related to PSD, 110(a)(2)(E)(ii), and 110(a)(2)(J) related to PSD, EPA is proposing to determine that Tennessee's infrastructure submission, provided to EPA on October 19, 2009, addressed the required infrastructure elements for the 2008 Lead NAAQS. EPA is proposing to approve in part and conditionally approve in part, Tennessee's SIP submission consistent with section 110(k)(3) of the CAA.

As described above, with the exception of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) related to PSD,

[13] (1) EPA's approval of Tennessee's PSD/NSR regulations which address the Ozone Implementation NSR Update requirements, (2) EPA's approval of Tennessee's PSD GHG Tailoring Rule revisions which addresses the thresholds for GHG permitting applicability in Tennessee, (3) EPA's approval of Tennessee's NSR $PM_{2.5}$ Rule, which adopts required federal PSD and NNSR permitting provisions governing the implementation of the NSR program for $PM_{2.5}$ as promulgated in the NSR $PM_{2.5}$ Rule, and (4) EPA's proposed conditional approval of Tennessee's PSD $PM_{2.5}$ Increments, SILs, and SMC rulemaking which addresses rules that regulate the construction and modification of any major stationary source locating in an attainment or unclassifiable area, where the source's emissions may cause or contribute to a violation of the NAAQS.

110(a)(2)(E)(ii) (as it relates to section 128(a)(1), and 110(a)(2)(J) related to PSD TDEC has addressed the elements of the CAA 110(a)(1) and (2) SIP requirements pursuant to section 110 of the CAA to ensure that the 2008 lead NAAQS are implemented, enforced, and maintained in Tennessee. With respect to sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) related to PSD, and 110(a)(2)(J) related to PSD, EPA is proposing to conditionally approve Tennessee's infrastructure SIP based on an October 4, 2012, commitment that TDEC will provide the necessary SIP revision to address its SIP deficiencies related to the October 20, 2010, final rulemaking related to PSD $PM_{2.5}$ Increments, SILs, and SMC Rule requirements. With respect to section 110(a)(2)(E)(ii) (referencing section 128 of the CAA), EPA is proposing to conditionally approve Tennessee's infrastructure SIP based on a March 28, 2012, commitment that TDEC will adopt specific enforceable measures into its SIP and submit these revisions to EPA July 23, 2013, to address the applicable portions of section 128. EPA intends to move forward with finalizing the conditional approval for these elements consistent with section 110(k)(4) of the Act. EPA is also proposing to approve Tennessee's infrastructure submission for the 2008 Lead NAAQS, with the exception of section 110(a)(2)(E)(ii), because its October 19, 2009, submission is consistent with section 110 of the CAA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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 proposed 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 proposed action:

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, and Recordkeeping requirements.

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

Dated: March 11, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–06418 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 2012–016; Docket 2012–0016; Sequence 1]

RIN 9000–AM50

Federal Acquisition Regulation; Defense Base Act

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before May 20, 2013 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2012–016 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2012–016.'' Select the link ''Submit a Comment'' that corresponds with ''FAR Case 2012–016.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FAR Case 2012–016'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FAR Case 2012–016, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement

Analyst, at 202–501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2012–016.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act.

II. Discussion and Analysis

The Defense Base Act of 1941, codified at 42 U.S.C. 1651, *et seq.,* extended the federal workers' compensation protections provided by the Longshore and Harbor Workers' Compensation Act (LHWCA) (33 U.S.C. 901, *et seq.*) to the following employment outside of the United States: Work for private employers on United States military bases, generally; work on public work contracts—where ''public work'' is not limited to construction, but includes service contracts—with a United States Government agency; work on contracts approved and funded by the U.S. under the Foreign Assistance Act; and work for American employers providing welfare or similar services for the benefit of the Armed Services, *e.g.,* the United Service Organizations (USO). It is intended to provide disability compensation and medical benefits to covered employees for work-related injuries, and death benefits to eligible survivors of employees whose deaths are work-related. Recent experience and anticipated contingency contracting efforts require the clarification of the responsibilities of contractors and subcontractors under the LHWCA to purchase workers' compensation insurance or to qualify as a self-insurer; to submit a timely, written report to the Department of Labor (DOL) in the event of an employee's injury or death; to make timely payment of all compensation due for disability or death, and to submit a timely, written report of such payment to the DOL; and to adhere to all other provisions of the Longshore and Harbor Workers' Compensation Act, as extended by the Defense Base Act.

Therefore, this action proposes to revise FAR clause 52.228–3, Workers Compensation Insurance (Defense Base Act) to clarify the responsibilities of contractors under the Defense Base Act, including the requirement to include flow down of this clause to all subcontractors to which the Defense Base Act applies.

This rule reflects statutory and DOL requirements, and does not impose additional burdens beyond those requirements.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the revisions to FAR clause 52.228–3, Workers' Compensation Insurance (Defense Base Act), merely clarify the existing requirements set forth in the Defense Base Act of 1941 (DBA), codified at 42 U.S.C. 1651, *et seq.*

However, an initial regulatory flexibility analysis (IRFA) has been prepared consistent with 5 U.S.C. 603, and is summarized as follows:

This rule amends the Federal Acquisition Regulation (FAR) to clarify contractor and subcontractor responsibilities to obtain workers' compensation insurance or to qualify as a self-insurer, and other requirements, under the terms of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act.

The objective of the rule is to amend FAR clause 52.228–3, Workers' Compensation Insurance (Defense Base Act) to clarify the responsibilities of contractors under the Defense Base Act, including the requirement to include flow down of this clause to all subcontractors to which the Defense Base Act applies.

DoD, NASA and GSA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the revisions to FAR clause 52.228–3, Workers' Compensation Insurance (Defense Base Act), merely clarify the existing requirements set forth in the Defense Base Act of 1941 (DBA), codified at 42 U.S.C. § 1651, *et seq.*

The proposed rule imposes no reporting, recordkeeping, or other information collection requirements than what are already required to be reported to the Department of Labor as per the Defense Base Act. The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternatives to the rule.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR case 2012–016) in correspondence.

V. Paperwork Reduction Act

The proposed rule does not contain any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: March 14, 2013.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Revise section 52.228–3 to read as follows:

52.228–3 Workers Compensation Insurance (Defense Base Act).

As prescribed in 28.309(a), insert the following clause:

Workers' Compensation Insurance (Defense Base Act) (Mar 2013)

(a) The Contractor shall—

(1) Before commencing performance under this contract, establish provisions to provide for the payment of disability compensation and medical benefits to covered employees and death benefits to their eligible survivors, by purchasing workers' compensation insurance or qualifying as a self-insurer under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 932) as extended by the Defense Base Act (42 U.S.C. 1651, *et seq.*), and continue to maintain provisions to provide such Defense Base Act benefits until contract performance is completed;

(2) Within ten days of an employee's injury or death or from the date the Contractor has knowledge of the injury or death, submit Form LS–202 (Employee's First Report of Injury or Occupational Illness) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 930(a), 20 CFR 702.201 to 702.203);

(3) Pay all compensation due for disability or death within the time frames required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914, 20 CFR 702.231 and 703.232);

(4) Provide for medical care as required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 907, 20 CFR 702.402 and 702.419);

(5) If controverting the right to compensation, submit Form LS–207 (Notice of Controversion of Right to Compensation) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(d), 20 CFR 702.251);

(6) Immediately upon making the first payment of compensation in any case, submit Form LS–206 (Payment Of Compensation Without Award) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(c), 20 CFR 702.234);

(7) When payments are suspended or when making the final payment, submit Form LS–208 (Notice of Final Payment or Suspension of Compensation Payments) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(c) and (g), 20 CFR 702.234 and 702.235); and

(8) Adhere to all other provisions of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act, and Department of Labor regulations at 20 CFR Parts 701 to 704.

(b) The actions set forth under paragraphs (a)(2) through (a)(8) may be performed by the contractor's agent or insurance carrier.

(c) For additional information on the Longshore and Harbor Workers' Compensation Act requirements see *http://www.dol.gov/owcp/dlhwc/lsdba.htm.*

(d) The Contractor shall insert the substance of this clause, including this paragraph (d) in all subcontracts to which the Defense Base Act applies.

(End of clause)

[FR Doc. 2013–06325 Filed 3–19–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120919470–3182–01]

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: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 9 (Amendment 9) to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP) as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this rule would revise the criteria and procedures by which a South Atlantic state may request a concurrent closure of the exclusive economic zone (EEZ) to the commercial harvest of penaeid shrimp (brown, pink, and white shrimp) when state waters close as a result of severe winter weather. Amendment 9 would also revise the overfished and overfishing status determination criteria for pink shrimp. The intent of this rule is to increase the flexibility and timeliness of the criteria and process for implementing a concurrent closure of penaeid shrimp harvest in the EEZ to maximize protection of overwintering white shrimp in the South Atlantic.

DATES: Written comments must be received on or before April 19, 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,* click on ''submit a comment'', then enter ''NOAA–NMFS–2012–0227'' in the keyword search and click on ''search''. To view posted comments during the comment period, enter ''NOAA–NMFS–2012–0227'' in the keyword search and click on ''search''. NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of Amendment 9 may be obtained from the Southeast Regional Office Web Site at *http://sero.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727–824–5305, or email: *kate.michie@noaa.gov.*

SUPPLEMENTARY INFORMATION: 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

Under 50 CFR 622.35(d)(1), NMFS may close the EEZ adjacent to a South Atlantic state that has closed its waters to the harvest of brown, pink, and white shrimp to protect the white shrimp spawning stock that has been severely depleted by cold weather. Based on information from standardized assessments, if a state has determined that unusually cold temperatures have resulted in at least an 80-percent reduction of the white shrimp population in its state waters, the state may request that the EEZ adjacent to its state waters concurrently close to the commercial harvest of penaeid shrimp. The specific criteria that a state must meet to request a concurrent closure of the adjacent EEZ waters is described in the FMP. Under the current procedures, once a state has determined that specific conditions have been met the state sends a request to close EEZ waters to penaeid shrimp harvest to the Council,

and then the Council convenes its Shrimp Review Panel to review the state's request. If the Shrimp Review Panel's recommendation is affirmative, they forward their recommendation to the Council. The Council may then approve the state's request and send a letter to NMFS to request a harvest prohibition of penaeid shrimp in EEZ waters adjacent to the closed state waters. Once NMFS has determined that 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 in the **Federal Register.** The closure will generally remain effective until the ending date of the state's closure, but may be ended earlier based on a request from the state.

During the closure, as specified in 50 CFR 622.35(d)(2), no person may: (1) Trawl for brown, pink, or white shrimp in the closed portion of the EEZ; (2) possess on board a fishing vessel brown, pink, or white shrimp in or from the closed portion of the EEZ, unless the vessel is in transit through the area and all nets with a mesh size of less than 4 inches (10.2 cm) are stowed below deck; or (3) for a vessel trawling within 25 nautical miles of the baseline from which the territorial sea is measured, use or have on board a trawl net with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut.

Management Measures Contained in This Proposed Rule

The management measures contained in Amendment 9 and this proposed rule would not require any changes to the current regulatory text within § 622.35(d), ''South Atlantic shrimp cold weather closure.'' This is because the current regulations refer to the FMP for the specific criteria and procedures required to implement a concurrent closure of the EEZ for penaeid shrimp. This rule would revise those criteria and procedures within the FMP, however, the regulatory text would not change.

Criteria Used To Trigger a State's Ability To Request a Concurrent Closure of the EEZ to Penaeid Shrimp Commercial Harvest

This rule would revise the criteria that a state must meet to request from NMFS a closure of commercial penaeid shrimp harvest in Federal waters following severe winter weather and a closure of state waters. Currently, a state must demonstrate at least an 80-percent reduction in the population of overwintering white shrimp in order to justify a closure. This rule would require that a state must demonstrate either at least an 80-percent reduction in the population of overwintering white shrimp or that state water temperatures were 9 °C (48 °F) or less, for at least 7 consecutive days. Additional details regarding the sampling methods a state may use for these determinations may be found in Amendment 9 and the FMP and are referenced in the regulatory text at 50 CFR § 622.35(d). These revised criteria would provide increased flexibility for a state to protect the overwintering white shrimp in a state's adjacent EEZ waters.

Process for a State To Request a Concurrent Closure of the EEZ to Penaeid Shrimp Commercial Harvest

This rule would revise the procedures for a state to request a closure of the penaeid shrimp commercial sector in the EEZ concurrent with a closure of its 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 that 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.** This proposed rule would streamline these request procedures to reduce delays in closing the penaeid shrimp fishery, which may then yield biological benefits to the shrimp stock through a more timely closure. The revised procedures would allow a state, after determining that the revised concurrent closure criteria have been met, to submit a letter directly to the NMFS Regional Administrator (RA) with the request and supporting data for a concurrent closure of penaeid shrimp harvest in the EEZ adjacent to the closed state waters. After a review of the request and supporting information, if the RA determines the recommended closure is in accordance with the procedures and criteria specified in the FMP and the Magnuson-Stevens Act, NMFS would implement the closure through a notification in the **Federal Register.** These revised procedures would also reduce the administrative burden to the states and the Council through a more efficient process.

Additional Management Measure Contained in Amendment 9

Amendment 9 also revises the overfished and overfishing status determination criteria (biomass at the maximum sustainable yield (B_{MSY})) for the pink shrimp stock. B_{MSY} for pink shrimp was most recently revised in Amendment 6 to the Shrimp FMP (70 FR 73383, December 12, 2005). Amendment 6 established a (B_{MSY}) proxy for pink shrimp based on two thresholds: (a) if the stock diminishes to ½ of the maximum sustainable yield (MSY) abundance (½ B_{MSY}) in 1 year, or (b) if the stock is diminished below MSY abundance (B_{MSY}) for 2 consecutive years. A proxy for B_{MSY} was established for pink shrimp using catch per unit effort (CPUE) information from the Southeast Area Monitoring and Assessment Program (SEAMAP) survey program data as the lowest values in the period 1990–2003 that produced catches reaching MSY in the following year. In Amendment 9, the B_{MSY} proxy is revised based on more recent SEAMAP harvest data for pink shrimp. Specifically, Amendment 9 revises the B_{MSY} proxy for pink shrimp using the lowest CPUE value from SEAMAP during the period 1990–2011 (0.089 individuals per hectare). The Council and NMFS determined that the pink shrimp stock size that produced the relatively low CPUE value of 0.089 individuals per hectare does not compromise the long term capacity of the pink shrimp stock to achieve MSY because the low stock size has historically produced a biomass the following year that is capable of achieving MSY based on the best available science.

Availability of Amendment 9

Additional background and rationale for the measures previously discussed are contained in Amendment 9. The availability of Amendment 9 was announced in the **Federal Register** on March 4, 2013 (78 FR 14069). Written comments on Amendment 9 must be received by May 3, 2013. All comments received on Amendment 9 or the proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent

with the amendment, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The purposes of the rule and Amendment 9 are to modify the criteria for a South Atlantic state to request a closure of Federal waters to commercial penaeid shrimp harvest, concurrent with closure of a state's waters to protect overwintering white shrimp, to streamline the process by which a state can request a concurrent closure, and to establish a B_{MSY} proxy for pink shrimp, which is used in determining the overfished and overfishing status. The objectives of the rule and Amendment 9 are to establish a more timely and efficient process for a state to request a concurrent closure of penaeid shrimp harvest in Federal waters adjacent to closed state waters to maximize protection of overwintering white shrimp during cold weather events, and to improve the accuracy of the biological parameters used for pink shrimp management. The Magnuson-Stevens Act serves as the legal basis for the rule.

The Small Business Administration has established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all its affiliated operations worldwide.

The actions in this rule are administrative in nature and thus would only generate indirect economic effects on commercial operations in the South Atlantic shrimp fishery. Specifically, the actions in this rule would make it easier for states to request a concurrent closure of the penaeid shrimp fishery by allowing them to use an additional criterion when making such requests, reduce the time between when a cold weather event occurs and a closure of the EEZ is implemented, and reduce the probability the pink shrimp component of the fishery is closed due to an overfishing or overfished status determination. As such, this proposed rule is not expected to generate any direct economic effects on commercial operations in the South Atlantic shrimp fishery. Therefore, no small entities would be directly affected by this rule.

As a result of the information above, a reduction in profits for a substantial number of small entities is not expected. Because this rule, if implemented, is not expected to have a significant direct adverse economic effect on the profits of a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

No duplicative, overlapping, or conflicting Federal rules have been identified. This rule would not establish any new reporting or record-keeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 14, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2013–06410 Filed 3–19–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 54

Wednesday, March 20, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collection to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503. Copies of submission may be obtained by calling (202) 712–5007.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–059.

Form Number: AID Form 566–01, AID 566–02, AID 566–03, AID 566–04 and AID 566–05.

Title: Inquiry for Employment, Residence, Personal, Education and Law.

Type of Submission: Reinstatement of Information Collection.

Purpose: USAID is required by Executive order that Background investigations be conducted on all persons entering Federal Service. 5 U.S.C. 3301 and 5 CFR 5.2 require that investigations and determinations be made concerning the qualifications and fitness of applicants for federal employment. A National Agency Check and written inquiries are the minimum investigation required for employment in any department or agency of the Government as prescribed in Section 3(a) of the Executive Order 10450.

Annual Reporting Burden

Respondents: 120.

Total annual responses: 120.

Total annual hours requested: 30.

Dated: March 11, 2013.

Lynn P. Winston,

Chief, Bureau for Management, Office of Management Services, Information and Records Division, U.S. Agency for International Development.

[FR Doc. 2013–06192 Filed 3–19–13; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 15, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 19, 2013 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: OIRA_*Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Federal Plant Pest, Noxious Weed, and Garbage Regulations.

OMB Control Number: 0579–0054.

Summary of Collection: In accordance with Section 412 of the Plant Protection Act (Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7712), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, exportation, or movement of interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of a plant pest or noxious weed within the United States. Animal and Plant Health Inspection Service's (APHIS) regulations implementing the Plant Protection Act are contained (in part) in part 330 of Title 7, Code of Federal Regulations and part 360 of Title 7, Code of Federal Regulations.

Need and Use of the Information: APHIS will collect information to evaluate the risk associated with the interstate movement of plant pest, noxious weeds, and soil. APHIS will also collect information to monitor operations at facility to ensure permit conditions are being met. The information is used to determine whether a permit can be issued, and also to develop risk-mitigating conditions for the proposed movement. If the information were not collected, APHIS ability to protect the United States from a plant pest or noxious weed incursion would be significantly compromised.

Description of Respondents: Business or other for-profit; Individuals or households; State, Local or Tribal Government

Number of Respondents: 25,755.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 18,418.

Animal Plant and Health Inspection Service

Title: Irradiation Phytosanitary Treatment for Fresh Fruits and Vegetables.

OMB Control Number: 0579–0155.

Summary of Collection: The Plant Protection Act (7 U.S.C. 7701–7772), the Animal and Plant Health Inspection Service (APHIS) is authorized, among other things, to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States. Regulations in 7 CFR 305 provide for the use of irradiation as a phytosanitary treatment for certain fruits and vegetables imported in the United States. The irradiation treatment provides protection against all inspect pest including fruit flies, the mango seed weevil, and others.

Need and Use of the Information: APHIS will collect information using a compliance agreement, 30-day notification, labeling packaging, dosimetry recordings, requests for dosimetry device approval, recordkeeping, requests for facility approval, work plan, trust fund agreement, phytosanitary certificate and denial and withdrawal certification. Without the collection of this information, APHIS would have no practical way of determining that any given commodity had actually been irradiated.

Description of Respondents: Business or other for profit; Federal Government.

Number of Respondents: 88.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 332.

Animal and Plant Health Inspection Service

Title: APHIS Pest Reporting Form.

OMB Control Number: 0579–0311.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701—*et seq*), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. Plant health regulations promulgated by the United States Department of Agriculture under this authority specifically address control programs for a number of pests and disease of concern, including Asian Longhorn Beetle (ALB), emerald ash borer (EAB) beetle, and citrus greening, to name a few. The Animal and Plant Health Inspection Service (APHIS) will collect information using form PPQ–10, Plant Protection and Quarantine Pest Reporting Form.

Need and Use of the Information: APHIS relies on the public to report sightings of the pests of concern or suspicious signs of pest or disease damage that may see in their local area. This reporting is done through a simple online form. The following information will be collected from the form: Contact information, location and date of sighting, location and date of search and signs or symptoms of pest or disease damage observed. Failing to collect this information could result in APHIS not receiving information about where infestations may exist, causing them to linger unreported and grow.

Infestations of high-consequence pests or diseases, such as ALB, EAB, citrus greening, and others, could lead to significant economic damage to crops, forests, and landscapes.

Description of Respondents: Individuals or households.

Number of Respondents: 5,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 415.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–06389 Filed 3–19–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 14, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Chief Financial Officer

Title: Supplier Credit Audit Recovery.

OMB Control Number: 0505–NEW.

Summary of Collection: The authority for this collection can be found in 115 Stat. 1186 Public Law 107–107-December 2001 Sec. 831. On March 10, 2010, the President signed a presidential memorandum directing all federal departments and agencies to expand and intensify their use of payment recapture audits. These audits offer specialized private auditors financial incentives to root out improper payments, and have been demonstrated through pilot programs to be highly effective. With new authorities made available in the Improper Payment Elimination and Recovery Act, it is anticipated that using the payment recapture audits will return at least $2 billion over the next three years to American taxpayers.

Need and Use of the Information: The Office of the Chief Financial Officer (OCFO) will send annual letters to all vendors in an attempt collect payments. The letter is asking the vendors to review their records to verify no funds are due back to USDA for goods or services provided by these vendors. If the information is not collected OCFO would not be able to identify the root cause of improper payments and would not be able to accomplishment this without verification of suspected overpayments to suppliers or vendors.

Description of Respondents: Business or other for-profit.

Number of Respondents: 300,000.

Frequency of Responses: Reporting: On occasion .

Total Burden Hours: 600,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–06355 Filed 3–19–13; 8:45 am]

BILLING CODE 3410–KS–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Grey Towers Visitor Comment Card

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Forest Service's intent to request: (1) An extension from the Office of Management and Budget; and (2) to merge the currently approved information collection 0596–0222, ''Grey Towers Visitor Comment Card'' with 0596–0226, ''Forest Service Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.''

DATES: Comments must be received in writing on or before May 20, 2013 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Nicole Bernarsky, USDA Forest Service, Grey Towers National Historic Site, P.O. Box 188, Milford, PA 18337.

Comments also may be submitted via facsimile to (570) 296–9675, or by email to: *nbernarsky@fs.fed.us*

The public may inspect comments received at Grey Towers National Historic Site during normal business hours. Visitors are encouraged to call ahead to (570) 296–9630 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Nicole Bernarsky, Grey Towers National Historic Site, (570) 296–9630.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Grey Towers Visitor Comment Card.

OMB Number: 0596–0222.

Expiration Date of Approval: 6/30/2013.

Type of Request: Extension of a currently approved information collection.

Abstract: The collection of this information is necessary because it helps Grey Towers provide quality-based programs and events. Participants' input is vital, and this form allows participants to provide important feedback. The completion and subsequent evaluation of this form will ensure Grey Towers can continue to serve their stakeholders and the public in a service-oriented manner.

This information will be collected by administering a 8.5'' x 11'' form sheet to program or event participants at the conclusion of a program or event. The information will be used to further improve or otherwise change our programs and events, and track site attendance, site usage, and participant feedback. The Grey Towers Programs and Administrative Staff will analyze the collected information.

Estimate of Burden per response: 5 minutes .

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 750.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 63 hours.

Comments are invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: March 14, 2013.

Paul Ries,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 2013–06367 Filed 3–19–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 6, 2013, the United States Court of International Trade (''CIT'' or ''the Court'') sustained the Department of Commerce's (''the Department'') final results of second remand determination, which construed that the scope of the order [1] excludes Legacy Classic Furniture, Inc.'s (''Legacy'') Heritage Court Bench pursuant to the CIT's remand order in *Legacy Classic Furniture* v. *United States, Court No. 10–00352,* Slip Op. 12–121 (September 19, 2012) (''*Legacy II''*).[2] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken''*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades''*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final scope ruling and is amending its final scope ruling on Legacy's Heritage Court Bench.[3]

DATES: Effective Date: March 16, 2013.

FOR FURTHER INFORMATION CONTACT: Lori Apodaca, AD/CVD Operations, Office 4, Import Administration—International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC, 20230; telephone (202) 482–4551.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2010, Legacy requested a ruling by the Department to determine whether the Heritage Court Bench, an

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China,* 70 FR 329 (January 4, 2005) (''*WBF Order''*).

[2] *See* Final Results of Redetermination Pursuant to Remand, Court No. 10–00352, dated January 4, 2013 (''Remand Results II'').

[3] *See* Memorandum regarding Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on Legacy Classic Furniture, Inc.'s Heritage Court Bench, dated November 22, 2010 (''Final Scope Ruling'').

item it imports and describes as a bench, is outside of the scope of the *WBF Order.* In the Final Scope Ruling, the Department stated that it was required to look beyond the factors provided under 19 CFR 351.225(k)(1) because the descriptions of the merchandise were not dispositive. Accordingly, the Department considered the five factors set out in 19 CFR 351.225(k)(2) (''(k)(2) factors'') and concluded that the Heritage Court Bench is covered by the scope of the *WBF Order.* Legacy appealed the Final Scope Ruling. In *Legacy I,*[4] the Court affirmed the Department's determination that the factors at 19 CFR 351.225(k)(1) were not dispositive, but held that the conclusion made by the Department regarding the five (k)(2) factors was not supported by substantial record evidence and, therefore, must be set aside and reconsidered. Thus, the Court ordered the Department to reconsider each of the five factors set out in 19 CFR 351.225(k)(2). In response to the Court's remand, the Department issued its Remand Results[5] determining that the Heritage Court Bench is covered by the scope based on the (k)(2) factors. In *Legacy II,* upon review of the Remand Results, the Court revisited its conclusion regarding the 19 CFR 351.225(k)(1) factors and ordered the Department to reconsider whether the 19 CFR 351.225(k)(1) factors are dispositive in determining whether the Heritage Court Bench is covered by the scope of the *WBF Order.*[6] The Court also held that the Department's determination regarding the (k)(2) factors was unsupported by substantial evidence.[7] Pursuant to the Court's order in *Legacy II,* in Remand Results II, we determined that the Heritage Court Bench is excluded from the scope of the *WBF Order.*[8] The CIT sustained the Department's Remand Results II on March 6, 2013.[9]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC has 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 March 6, 2013, judgment sustaining the Department's Remand Results II construing the scope of the *WBF Order* as excluding Legacy's Heritage Court Bench, constitutes a final decision of that court that is not in harmony with the Department's Final Scope Ruling. This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of Legacy's Heritage Court Bench from the People's Republic of China pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate on Legacy's Heritage Court Bench will be zero percent.

Amended Final Scope Ruling

Because there is now a final court decision with respect to Legacy's Heritage Court Bench, the Department amends its Final Scope Ruling and now finds that the scope of the *WBF Order* excludes Legacy's Heritage Court Bench. The Department will instruct U.S. Customs and Border Protection (''CBP'') that the cash deposit rate on Legacy's Heritage Court Bench will be zero percent. In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct CBP to liquidate entries of Legacy's Heritage Court Bench without regard to antidumping duties, and to lift suspension of liquidation of such entries.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: March 14, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–06409 Filed 3–19–13; 8:45 am]

BILLING CODE 3510–DS–P

[4] *Legacy Classic Furniture, Inc.* v. *United States,* 807 F. Supp. 2d 1353 (Ct. Int'l Trade 2011) (''*Legacy I*'').

[5] *See* Final Results of Redetermination Pursuant to Remand, Court No. 10–00352, dated March 22, 2012 (''Remand Results'').

[6] *See Legacy II,* Slip Op. 12–121 at 15–21.

[7] *Id.* at 14–15.

[8] The Department noted in Remand Results II that it was conducting the remand respectfully under protest. *See Viraj Group, Ltd.* v. *United States,* 343 F.3d 1371 (Fed. Cir. 2003).

[9] *See Legacy II.*

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

[OJP (OJJDP) Docket No. 1620]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) announces its next meeting.

DATES: Friday, April 12, 2013, from 10:00 a.m. to 12:00 p.m. ET.

ADDRESSES: The meeting will take place in the third floor main conference room at the U.S. Department of Justice, Office of Justice Programs, 810 7th St. NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Visit the Web site for the Coordinating Council at *www.juvenilecouncil.gov* or contact Kathi Grasso, Designated Federal Official, by telephone at 202–616–7567 [Note: this is not a toll-free telephone number], or by email at *Kathi.Grasso@usdoj.gov.* The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2) will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, et seq. Documents such as meeting announcements, agendas, minutes, and reports will be available on the Council's Web page, *www.juvenilecouncil.gov,* where you may also obtain information on the meeting.

Although designated agency representatives may attend, the Council membership is composed of the Attorney General (Chair), the Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), the Secretary of Health and Human Services (HHS), the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement. The nine additional members are appointed by the Speaker of the House of Representatives, the Senate Majority Leader, and the President of the United States. Other federal agencies take part in Council activities including the Departments of Agriculture, Defense, the Interior, and the Substance and Mental Health Services Administration of HHS.

Meeting Agenda

The preliminary agenda for this meeting includes: (a) Welcome and introductions; (b) discussion among the

Council members of the federal agencies' plans to implement key recommendations of the National Task Force on Children Exposed to Violence and of their current activities to address children's exposure to violence such as elevating public awareness and improving identification, screening, assessment and treatment; (c) announcements and updates; and (d) summary and adjournment.

Registration

For security purposes, members of the public who wish to attend the meeting must pre-register online at *www.juvenilecouncil.gov* no later than Monday, April 8, 2013. Should problems arise with web registration, call Daryel Dunston at 240–221–4343 or send a request to register to Mr. Dunston. Include name, title, organization or other affiliation, full address and phone, fax and email information and send to his attention either by fax to 301–945–4295, or by email to *ddunston@edjassociates.com.* [**Note:** these are not toll-free telephone numbers.] Additional identification documents may be required. Space is limited.

Note: Photo identification will be required for admission to the meeting.

Written Comments: Interested parties may submit written comments and questions by Monday, April 8, 2013, to Kathi Grasso, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, at *Kathi.Grasso@usdoj.gov.* The Coordinating Council on Juvenile Justice and Delinquency Prevention expects that the public statements presented will not repeat previously submitted statements. Written questions from the public may also be invited at the meeting.

Melodee Hanes,

Acting Administrator.

[FR Doc. 2013–06414 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0052]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service (DFAS), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces a new proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 20, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 2nd Floor, East Tower, Suite 02G09, Mark Center Drive, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal indentifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Finance and Accounting Service—Indianapolis, ATTN: ZTD—Mr. Joe Latchaw, Col 238N, Indianapolis, IN 46229, or call Mr. Bob Shreffler, (317) 212–3013.

Title, Associated Form, and OMB Control Number: Customer Care Center Enterprise Solution (CCCES); OMB Control Number 0730–TBD.

Needs and Uses: The CCCES supports the DFAS mission of providing an integrated Agent Platform, Customer Relationship Management (CRM) and supporting Knowledge Base (KB) solution that improves Customer Service Representative (CSR) efficiency and customer satisfaction. It is the means by which customer inquiries will be delivered to the CSR for resolution. This platform will support the inquiry routing and distribution to the CSRs, telephonically self-service, wait-in-queue outbound dialing, workforce management, call recording, metric gathering, and analysis. Information from the public is collected for verification, identification, authentication, and data matching in an effort to assist callers with inquiries and looking up historical contact records.

Affected Public: Individuals and households including: Former military service members, dependents, ex-spouses, non-DoD civilians paid by DFAS.

Annual Burden Hours: 789,448 hours.

Number of Respondents: 3,157,792.

Responses per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The CCCES is the means by which customer inquiries will be delivered to the CSR for resolution. Information for the CCCES is only collected from these individuals and households (i.e., former military service members, dependents, ex-spouses, and non-DoD civilians paid by DFAS) if they contact DFAS by telephone to obtain answers to inquiries about their accounts.

Dated: March 1, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–06340 Filed 3–19–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Space Command Notice of Test

AGENCY: U.S. Air Force Space Command, Department of the Air Force, DoD.

ACTION: GPS Test Notice.

SUMMARY: The purpose of this notification is to inform users of an upcoming event related to the GPS satellite constellation. U.S. Air Force Space Command will be testing CNAV capabilities on the GPS L2C and L5 signals on 15–29 June 2013. There are no planned GPS satellite outages for this activity. The broadcast navigation messages will be in compliance with IS–GPS–200 and IS–GPS–705. L2C/L5 CNAV testing will be transparent to GPS receivers that do not process L2C or L5 CNAV. U.S. Air Force Space Command

expects to conduct one to two CNAV tests per year over the next few years. These test events will provide an opportunity for civil users and manufacturers to participate in L2C/L5 evaluation and will result in enhanced provider and user readiness for L2C/L5 operations once the Next Generation GPS Operational Control System comes online in 2016. The draft test plan is available at (*http://www.navcen.uscg.gov/L2C_L5_CNAV_Test_Plan.pdf*). The draft test plan communicates details of the broadcast, data collection, and results reporting plans. U.S. Air Force Space Command and the National Space-Based Positioning, Navigation, and Timing Systems Engineering Forum (NPEF) encourage L2C and L5 users and receiver manufacturers to review the test plan, provide comments, and participate in the evaluation process. Comments to the test plan must be submitted on a Comment Resolution Matrix (*http://www.navcen.uscg.gov/L2C_L5_CNAV_Test_Plan_Comments_BLANK.xlsx*) by 29 April 2013 and sent to *Smcgper@us.af.mil.* The final test plan will be posted (*http://www.navcen.uscg.gov/L2C_L5_CNAV_Test_Plan.pdf*) once all comments have been adjudicated. All user and manufacturer comments and the resulting adjudications will also be posted (*http://www.navcen.uscg.gov/L2C_L5_CNAV_Test_Plan_Comments.pdf*) consistent with the GPS public ICWG process. Any military or civil users who encounter user equipment problems during or after testing should contact the GPS Operations Center (GPSOC) (military), NAVCEN (civil, non-aviation) as soon as possible. Aviation users should file reports consistent with FAA-approved procedures.

FOR FURTHER INFORMATION CONTACT: Send all questions or concerns regarding the CNAV Test Plan to *Smcgper@us.af.mil.*

Henry Williams Jr,

Acting Air Force **Federal Register** *Liaison Officer.*

[FR Doc. 2013–06375 Filed 3–19–13; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2013–0005]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Notification Requirements for Critical Safety Items

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through July 31, 2013. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by May 20, 2013.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0441, using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: dfars@osd.mil. Include OMB Control Number 0704–0441 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, 571–372–6098. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Meredith Murphy, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Notification Requirements for Critical Safety Items; OMB Control Number 0704–0441.

Needs and Uses: DoD needs this information to ensure that the Government receives timely notification of item nonconformances or deficiencies that could impact safety. The Procuring Contracting Officer (PCO) and the Administrative Contracting Officer (ACO) use the information to ensure that the customer is aware of potential safety issues in delivered products, has a basic understanding of the circumstances, and has a point of contact to begin addressing a mutually acceptable plan of action.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Annual Burden Hours: 250.

Number of Respondents: 250.

Responses per Respondent: 1.

Annual Responses: 250.

Average Burden per Response: Approximately 1 hour.

Frequency: On occasion.

Summary of Information Collection

This information collection includes requirements relating to DFARS part 246, Quality Assurance.

a. DFARS 246.371, Notification of Potential Safety Issues, prescribes use of the clause at DFARS 252.246–7003, Notification of Potential Safety Issues, to require DoD contractors to provide timely notification to the Government of any nonconformance or deficiency that could impact the safety of items acquired by or serviced for the Government.

b. DFARS 212.301(f)(iv)(P) requires use of DFARS 252.246–7003 as prescribed in DFARS 246.371 for solicitations and contracts for the acquisition of commercial items.

c. DFARS 244.403 requires the use of DFARS 252.244–7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts), in solicitations and contracts for supplies

or services other than commercial items that contain the clause at DFARS 252.246–7003. DFARS 252.244–7000 requires that contractors include DFARS 252.246–7003 when applicable in subcontracts for commercial items or commercial components awarded at any tier under the contract.

Kortnee Stewart,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2013–06381 Filed 3–19–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy (DoN).

The following patents are available for licensing. Patent Number 8,004,216: Variable intensity LED illumination system, issued August 23, 2011//U.S. Patent Number 8,005,257: Gesture recognition apparatus and method, issued August 23, 2011//U.S. Patent Number 8,023,784: Optical subassembly package configuration, issued September 20, 2011//U.S. Patent Number 8,044,999: Image enhancer for detecting and identifying objects in turbid media, issued October 25, 2011// U.S. Patent Number 8,056,196: Quick release fitting, issued November 15, 2011//U.S. Patent Number 8,264,909: System and method for depth determination for an acoustic sour//U.S. Patent Number 8,273,698: Odorless low-VOC and HAP-free siloxane cleaner for aerospace cleaning applications, issued September 25, 2012//U.S. Patent Number 8,289,018: Gradient magnetometer atom interferometer, issued October 16, 2012//U.S. Patent Number 8,306,689: Integrated net-centric diagnostics dataflow for avionics systems, issued November 06, 2012// U.S. Patent Number 8,373,862: Extended range optical imaging system for use in turbid media, issued February 12, 2013//U.S. Patent Application Number 13/474,250, Navy Case Number PAX68: Method for measuring fatigue, filed May 17, 2012//U.S. Patent Application Number 13/231,992. Navy Case Number PAX69: Method for fabrication of an optically transparent and electrically conductive structural material, filed September 14, 2011//U.S. Patent Application Number 13/349,625, Navy Case Number PAX80: JSF Engine actuator installation/remover tool, filed January 13, 2012//U.S. Patent Application Number 13/596,153, Navy Case Number PAX85: Method for comparing head mobility, filed August 28, 2012//U.S. Patent Application Number 61/708,673, Navy Case Number PAX95: Constrained grid-based filter, filed October 02, 2012//U.S. Patent Application Number 13/744,960, Navy Case Number PAX108: Paint stripping composition, filed January 18, 2013// U.S. Patent Application Number 13/ 709,863, Navy Case Number PAX112: Recoilless bucking bar system, filed December 10, 2012//U.S. Patent Application Number 13/709,179, Navy Case Number PAX116: Improved Explosive Device (IED) test fixture, filed December 10, 2012.

ADDRESSES: Request for data and inventor interviews should be directed to Naval Air Warfare Center Aircraft Division, Technology Transfer Office, 22473 Millstone Road, Building 505, Patuxent River, MD 20670, 301–342–1133.

FOR FURTHER INFORMATION CONTACT: Naval Air Warfare Center Aircraft Division, Technology Transfer Office, 22473 Millstone Road, Building 505, Patuxent River, MD 20670, 301–342–1133.

SUPPLEMENTARY INFORMATION: The DoN intends to move expeditiously to license these inventions. All licensing application packages and commercialization plans must be returned to Naval Air Warfare Center Aircraft Division, Technology Transfer Office, 22473 Millstone Road, Building 505, Patuxent River, MD 20670.

The DoN, in its decisions concerning the granting of licenses, will give special consideration to existing licensee's, small business firms, and consortia involving small business firms. The DoN intends to ensure that its licensed inventions are broadly commercialized throughout the United States.

PCT application may be filed for each of the patents as noted above. The DoN intends that licensees interested in a license in territories outside of the United States will assume foreign prosecution and pay the cost of such prosecution.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: March 13, 2013.

D. G. Zimmerman,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2013–06368 Filed 3–19–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Fiber Optic Sensor Systems Technology Corporation

AGENCY: Department of the Navy, DoD.

ACTION: Notice; revision.

SUMMARY: The Department of the Navy published a document in the **Federal Register** on December 10, 2012, announcing an intent to grant to Fiber Optic Sensor Systems Technology Corporation, a revocable, nonassignable, exclusive license. The scope of the intent to license has been revised.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to U.S. Postal delays, please fax 202–404–7920, email: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

Correction

In the **Federal Register** of December 10, 2012, make the following revision:

In the third column, on page 73456 and the first column, on page 73457, revise the **SUMMARY** caption to read as follows:

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Fiber Optic Sensor Systems Technology Corporation a revocable, nonassignable, exclusive license to practice the field of use of electrical power measurements for the measurement or control of temperature, pressure, strain, vibration, acceleration, and any other measurement enabled in electrical power systems, including but not limited to, substations, generating facilities, transmission lines, distribution facilities and other electrical power infrastructure and in electrical power systems equipment, including but not limited to, generators, motors, transformers, switches, power supplies, batteries and other devices employed to generate, transform, transport, distribute or store electrical energy; the field of use of monitoring and control systems used in industrial production and infrastructure

monitoring and control, including particularly supervisory control systems and distributed control systems used in manufacturing, mining and utilities in the United States, the Government-owned inventions described in U.S. Patent No. 7,020,354: Intensity Modulated Fiber Optic Pressure Sensor, Navy Case No. 83,816.//U.S. Patent No. 7,149,374: Fiber Optic Pressure Sensor, Navy Case No. 84,557.//U.S. Patent No. 7,379,630: Multiplexed Fiber Optic Sensor System, Navy Case No. 97,488.// U.S. Patent No. 7,460,740: Intensity Modulated Fiber Optic Static Pressure Sensor System, Navy Case No. 97,279.// U.S. Patent No. 7,646,946: Intensity Modulated Fiber Optic Strain Sensor, Navy Case No. 97,005.//U.S. Patent No. 7,697,798: Fiber Optic Pressure Sensors and Catheters, Navy Case No. 97,569.// U.S. Patent No. 8,195,013: Miniature Fiber Optic Temperature Sensors, Navy Case No. 98,030.//U.S. Patent Application No. 12/698,646: Miniature Fiber Optic Temperature Sensors, Navy Case No. 100,134 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than April 4, 2013.

Dated: March 12, 2013.

D. G. Zimmerman,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2013–06373 Filed 3–19–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0032]

Agency Information Collection Activities; Comment Request; Evaluation of the GEAR UP College Savings Account Research Demonstration

AGENCY: Institute of Education Sciences, 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 new information collection

DATES: Interested persons are invited to submit comments on or before May 20, 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–0032 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: Evaluation of the GEAR UP College Savings Account Research Demonstration.

OMB Control Number: 1850—New.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 100.

Total Estimated Number of Annual Burden Hours: 200.

Abstract: The U.S. Department of Education (ED) will conduct a demonstration to test the effectiveness of supporting college savings accounts in the federal college access program, Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). This first Information Collection Request (ICR) for the study presents an overview of its design, including the plan to randomly assign high schools in the demonstration project into treatment and control conditions, and seeks clearance to collect student rosters in these high schools. A later ICR will request approval for the remaining data collection activities.

Dated: March 14, 2013.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–06329 Filed 3–19–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA: Number 84.358A]

Application Deadline for Fiscal Year (FY) 2013; Small, Rural School Achievement Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: Under the Small, Rural School Achievement (SRSA) program, the U.S. Department of Education (Department) awards grants on a formula basis to eligible local educational agencies (LEAs) to address the unique needs of rural school districts. In this notice, we establish the deadline for submission of fiscal year (FY) 2013 SRSA grant applications.

An eligible LEA that is required to submit an application must do so electronically by the deadline in this notice.

DATES:

Application Deadline: May 31, 2013, 4:30:00 p.m. Washington, DC time.

FOR FURTHER INFORMATION CONTACT: Eric Schulz, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W107, Washington, DC 20202. Telephone: (202) 401–0039 or by email: *reap@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Which LEAs are eligible for an award under the SRSA program?

An LEA (including a public charter school that is considered an LEA under State law) is eligible for an award under the SRSA program if—

(a) The total number of students in average daily attendance at all of the schools served by the LEA is fewer than 600, or each county in which a school served by the LEA is located has a total population density of fewer than 10 persons per square mile; and

(b)(1) All of the schools served by the LEA are designated with a school locale code of 7 or 8 by the Department's National Center for Education Statistics (NCES); or

(2) The Secretary has determined, based on a demonstration by the LEA and concurrence of the State educational agency, that the LEA is located in an area defined as rural by a governmental agency of the State.

Note: The school locale codes are the locale codes determined on the basis of the NCES school code methodology in place on the date of enactment of section 6211(b) of the Elementary and Secondary Education Act of 1965, as amended.

Which eligible LEAs must submit an application to receive an FY 2013 SRSA grant award?

An eligible LEA must submit an application to receive an FY 2013 SRSA grant award if that LEA has never submitted an application for SRSA funds in any prior year.

All eligible LEAs that need to submit an application to receive an SRSA grant award in a given year are highlighted in yellow on the SRSA eligibility spreadsheets, which are posted annually on the SRSA program Web site at *www2.ed.gov/programs/reapsrsa/eligibility.html.*

Under the regulations in 34 CFR 75.104(a), the Secretary makes a grant only to an eligible party that submits an application. Given the limited purpose served by the application under the SRSA program, the Secretary considers the application requirement to be met if an LEA submitted an SRSA application for any prior year. In this circumstance, unless an LEA advises the Secretary by the application deadline that it is withdrawing its application, the Secretary deems the application that an LEA previously submitted to remain in effect for FY 2013 funding, and the LEA does not have to submit an additional application.

We intend to provide, by April 17, 2013, a list of LEAs eligible for FY 2013 funds on the Department's Web site at *http://www2.ed.gov/programs/reapsrsa/eligibility.html.* This Web site will indicate which eligible LEAs must submit an electronic application to the Department to receive an FY 2013 SRSA grant award, and which eligible LEAs are considered already to have met the application requirement.

Eligible LEAs that need to submit an application in order to receive FY 2013 SRSA funds must do so electronically by the deadline established in this notice.

Electronic Submission of Applications

An eligible LEA that is required to submit an application to receive FY 2013 SRSA funds must submit an electronic application by May 31, 2013, 4:30:00 p.m., Washington, DC time. If it submits its application after this deadline, the LEA will receive a grant award only to the extent that funds are available after the Department awards grants to other eligible LEAs under the program. Submission of an electronic application involves the use of the Department's G5 System. You can access the electronic application for the SRSA Program at: *www.g5.gov.* When you access this site, you will receive specific instructions regarding the information to include in your application.

The hours of operation of the G5 Web site are 6:00 a.m. Monday until 9:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday (Washington, DC time). Please note that the system is unavailable after 8:00 p.m. on Sundays, and after 9:00 p.m. on Wednesdays for maintenance (Washington, DC time). Any modifications to these hours are posted on the G5 Web site.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer 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. 7345–7345b.

Dated: March 15, 2013.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2013–06412 Filed 3–19–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 13–04–LNG]

Trunkline LNG Export, LLC; Application for Long-Term Authorization to Export Liquefied Natural Gas Produced from Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 25-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application) filed on January 10, 2013, by Trunkline LNG Export, LLC (TLNG Export), requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in an amount up to of 15 million metric tons per annum (mtpa), the equivalent of 730 billion cubic feet (Bcf) per year (Bcf/y) of natural gas (equal to 2 Bcf/day of natural gas), from the LNG terminal in Lake Charles, Louisiana (Lake Charles Terminal). TLNG Export requests this authorization for a 25-year term commencing on the earlier of the date of first export or 10 years from the date the requested authorization is granted.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., eastern time, May 20, 2013.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S.

Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Larine Moore or Marc Talbert, U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7991.

Edward Myers, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6B–256, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–3397.

SUPPLEMENTARY INFORMATION:

Background

TLNG Export is a Delaware limited liability company with its principal place of business in Houston, Texas. Trunkline LNG Company, LLC (TLNG), an affiliate of TLNG Export, owns and operates the Lake Charles LNG Terminal. TLNG Export will own the proposed liquefaction facility and hold the LNG export authorization. The owners of TLNG and TLNG Export include Energy Transfer Equity, L.P. (60% owner of both entities) and Energy Transfer Partners, L.P. (40% owner of both entities). As such, the existing Lake Charles Terminal, the proposed liquefaction facility, and the LNG export authorization requested herein would all be under the same ownership structure.

The Federal Energy Regulatory Commission (FERC) authorized construction and operation of the Lake Charles Terminal in 1977, with the original construction completed in July 1981. In 2001, BG LNG Services, LLC (BGLS) entered into a firm services agreement with TLNG for the receipt, storage, and vaporization of LNG at the Lake Charles Terminal. TLNG Export states that, consistent with the firm services agreement with BGLS, TLNG expanded and enhanced the Terminal through the construction of additional storage capacity, additional gas-fired vaporization capacity, an additional marine berth, ambient air vaporization equipment, and natural gas liquids extraction capability. TLNG Export further states that the Lake Charles Terminal today has a firm sustained send-out capacity of 1.8 Bcf/d of natural gas (13.7 mtpa of LNG); a peak send-out capacity of 2.1 Bcf/d; and four LNG storage tanks with a combined capacity of approximately 2.7 million barrels (approximately 9.0 bcf).

The amount of LNG sought to be exported from the Lake Charles Terminal in the current Application is the same amount for which export authorization is being sought by Lake Charles Exports, LLC (LCE) in a separate application filed May 6, 2011, and amended May 26, 2011, in DOE/FE Docket No. 11–59–LNG.[1] TLNG Export's Application for export authority in the current proceeding, therefore, is non-additive to the LCE export authorization request—that is, TLNG Export is not seeking to export any additional volumes of LNG from the Lake Charles Terminal beyond that sought by LCE in Docket No. 11–59–LNG. Instead, TLNG Export states that it is simply maximizing optionality in order to expand the potential customer base for LNG exports from the Lake Charles Terminal.

TLNG Export states that it, along with TLNG, is currently developing plans to modify the existing facilities at the Lake Charles Terminal to permit LNG to be loaded from the terminal's storage tanks onto vessels berthed at the existing marine facility. TLNG Export states that it is also developing plans to install liquefaction facilities that would permit gas to be received by pipeline at the terminal and liquefied for subsequent export. Thus, on March 30, 2012, TLNG Export, TLNG, and Trunkline Gas Company, LLC submitted a Request to Initiate FERC Pre-Filing Review Process in FERC Docket No. PF12–8–000. TLNG Export states that the FERC issued a letter approving the request to initiate the pre-filing process on April 6, 2012.[2]

TLNG Export states that the long-term export authorization sought in this Application, like that sought in the LCE application, is necessary in order to permit TLNG Export to proceed to incur the substantial cost of developing the liquefaction and export project. Any modifications to the Lake Charles Terminal would be subject to FERC approval.[3] TLNG Export states that following the completion of the project, the Lake Charles Terminal will be able to receive LNG for import and export or deliver LNG for export, and its peak and sustained send-out capabilities will not be affected.

TLNG Export states that in order to maximize optionality at the Lake Charles Terminal to address customer needs, it seeks broader authority than that sought by LCE. TLNG Export states that LCE requested authorization to export LNG on its own behalf or as agent for BGLS.[4] Here, in addition to entering into long-term natural gas supply or LNG export contracts, TLNG Export states that it may also enter into Liquefaction Tolling Agreements (LTA), under which individual customers who hold title to natural gas will have the right to deliver that gas to TLNG Export and receive LNG. TLNG Export seeks to export this LNG on its own behalf and also as agent for third parties under contracts to be executed on a date that is closer to the date of first export. TLNG Export contemplates that the title holder at the point of export[5] may be TLNG Export or one of TLNG Export's customers, or another party that has purchased LNG from a customer pursuant to a long-term contract.

TLNG Export requests authorization to register each LNG title holder for whom TLNG Export seeks to export as agent, with such registration including a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included by DOE/FE in TLNG Export's authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. TLNG Export also states that it will file under seal with DOE/FE any relevant long-term commercial agreements between TLNG Export and such LNG title holder, including LTAs, once they have been executed.

TLNG Export states that although both TLNG Export and LCE are seeking authorization to export LNG from the Lake Charles Terminal, TLNG Export is separate and apart from LCE and will have no impact on LCE or its authorization. TLNG Export states that neither TLNG Export nor its parent companies have a controlling ownership share of LCE. TLNG will allocate export

[1] On July 22, 2011, the DOE/FE approved that portion of the application seeking to export LNG to FTA nations. The non-FTA portion of the application is currently pending. *See Lake Charles Exports, LLC,* DOE/FE Order No. 2987 (July 22, 2011).

[2] Letter re: Approval of Pre-Filing Request, FERC Docket No. PF12–8–000 (April 6, 2012).

[3] TLNG Export states that as with all the prior activities at the Lake Charles Terminal, FERC would only approve any such modifications once all National Environmental Policy Act requirements had bee satisfied fully. *See e.g. Trunkline LNG Company, LLC,* 100 FERC ¶ 61,217 (2002), *order denying reh'g and granting authorization under Section 3 of the NGA,* 101 FERC ¶ 61,300 (2002), *order denying reh'g,* 102 FERC ¶ 61,306 (2003), *order amending certificate,* 105 FERC ¶ 61,137 (2003).

[4] The DOE/FE approved that portion of the application seeking to export LNG to FTA nations. *See Lake Charles Exports, LLC,* DOE/FE Order No. 2987 (July 22, 2011).

[5] ''LNG exports occur when the LNG is delivered to the flange of the LNG export vessel.'' *See Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC,* DOE/FE Order No. 2913 at n.4 (February 10, 2011); *Dow Chemical Company,* FE Order No. 2859 at 7 (October 5, 2010).

quantities between LCE and TLNG Export to ensure that the total exports from the Lake Charles Terminal do not exceed the total quantity of exports authorized for the Lake Charles Terminal, *i.e.* the total of exports allocated between LCE and TLNG Export will not exceed 15 mtpa (approximately 730 Bcf/y).

Current Application

In the instant Application, TLNG Export seeks to export LNG by vessel from the Lake Charles Terminal to (1) any country with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and (2) as relevant here, any country with which the United States does not have an FTA requiring national treatment for trade in natural gas (non-FTA countries) with which trade is not prohibited by U.S. law or policy. TLNG Export seeks to export this LNG on its own behalf and also as agent for third parties. TLNG Export requests that this authorization commence on the earlier of the date of first export or 10 years from the date the authorization is issued.

The portion of the Application that seeks authorization to export domestically produced LNG to non-FTA countries will be reviewed pursuant to Section 3(a) of the Natural Gas Act as amended and is the subject of this Notice. The portion of the Application that seeks authorization to export domestically produced LNG to FTA countries has been reviewed pursuant to Section 3(c) of the Natural Gas Act, as amended.[6]

TLNG Export states that the source of the natural gas proposed for export will come from the United States natural gas pipeline system. While TLNG Export anticipates that sources of natural gas will include Texas and Louisiana producing regions and the offshore gulf producing regions,[7] it states that the natural gas to be exported may be produced throughout the United States.

Public Interest Considerations

TLNG Export states that its proposed non-FTA authorization should be granted by DOE/FE under Section 3(a) of the NGA. TLNG Export states that in evaluating the ''public interest'' the DOE/FE, consistent with its Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas, examines whether ''domestic supply shortages or domestic security needs overcome the statutory presumption that a proposed export is not inconsistent with the public interest.'' [8] While the Policy Guidelines deal specifically with imports, the DOE/FE has found that the principles are applicable to exports.[9]

TLNG Export states that in 2012, the DOE commissioned a study by NERA Economic Consulting on the macroeconomic impacts of LNG exports from the United States.[10] TLNG Export states that the NERA Study's findings are in line with the conclusions of the Deloitte Study [11] and both support approval of the instant Application to export LNG from the Lake Charles Terminal. TLNG Export states that the NERA Study concluded that across all scenarios studied, ''the U.S. was projected to gain net economic benefits from allowing LNG exports.'' [12] TLNG Export states that the NERA Study further concluded that ''for every one of the market scenarios examined, net economic benefits increased as the level of LNG exports increased.'' [13] TLNG Export states that although the NERA Study found that United States natural gas prices increase when LNG is exported, ''the global market limits how high U.S. natural gas prices can rise under pressure of LNG exports because importers will not purchase U.S. exports if U.S. wellhead price rises above the cost of competing supplies.'' [14]

TLNG Export states that the NERA Study also concluded that natural gas prices in the United States will not rise to the levels observed in other parts of the world.[15] TLNG Export states that the NERA Study found that even in the scenarios where unlimited exports were permitted, the wellhead price in the United States remained below the import price in Japan, for example, where the United States sends some of its exports.[16]

TLNG Export states that both the Deloitte Study and the NERA Study point to net positive benefits from allowing exports of LNG from the United States. TLNG Export asserts that LNG exports will not have a material adverse impact on domestic natural gas prices. TLNG Export states that, accordingly, the proposed export is not inconsistent with the public interest. The Application has a more complete discussion of TLNG Export's public interest analysis.[17]

Environmental Impact

TLNG Export states that presently, the Lake Charles Terminal is equipped for and authorized only to receive imports of LNG. The Application indicates that TLNG Export and TLNG will file an application with FERC for authorization to modify the existing authorized import facilities for exports, in accordance with NGA Section 3 and subpart B of part 153 of the Commission's Regulations, 18 CFR 153.4 *et seq,* and Trunkline will file a concurrent application for authorization to construct additional pipeline facilities necessary to provide feed gas to the proposed liquefaction facility with FERC under NGA Section 7 and part 157 of the Commission's Regulations, 18 CFR part 157.[18] On March 30, 2012, TLNG Export, TLNG, and Trunkline submitted a Request to Initiate FERC Pre-Filing Review Process in FERC Docket No. PF12–8–000. In the Request, TLNG Export, TLNG, and Trunkline indicated that they plan to file the FERC applications in March 2013. TLNG Export states that on April 6, 2012, FERC issued a letter approving the request to initiate the pre-filing process for the liquefaction project and pipeline facilities.

Regarding the instant proposed export to non-FTA countries, TLNG Export

[6] On March 7, 2013, the DOE/FE approved that portion of the application seeking to export LNG to FTA nations in DOE/FE Order No. 3252 in FE Docket No. 13–04–LNG.

[7] Insofar as TLNG Export may seek to export natural gas produced on the outer continental shelf, the export of such natural gas may be subject to the Outer Continental Shelf Lands Act, which in relevant part provides: ''Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.'' 43 U.S.C. 1354. DOE expresses no opinion regarding the applicability of this provision of law to export operations which Trunkline is planning to undertake.

[8] Sabine Section 3(c) Order at 5; Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas, 49 FR 6,684 (February 22, 1984) (''Policy Guidelines'').

[9] *Phillips Alaska Natural Gas Corp. and Marathon Oil Co.,* DOE/FE Order No. 1473 at 14.

[10] NERA Economic Consulting, *Macroeconomic Impacts of LNG Exports from the United States* (Dec. 5, 2012), available at *http://fossil.energy.gov/programs/gasregulation/LNGStudy.html* (''NERA Study'').

[11] Deloitte Center for Energy Solutions and Deloitte MarketPoint LLC, *Made in America—The Economic Impact of LNG Exports from the United States, available at http://www.deloitte.com/view/en_US/us/Services/consulting/9f70dd1cc9324310VgnVCM1000001a56f00aRCRD.htm*

[12] NERA Study at 1.

[13] *Id.* The NERA Study noted that ''even with exports reaching levels greater than 12 Bcf/d and associated higher prices than in constrained cases, there were net economic benefits from allowing unlimited exports in all cases.'' See *Id.* at 6.

[14] *Id.* at 2.

[15] *Id.* 76.

[16] *Id.*

[17] Application at 8–22.

[18] *See, e.g., Cameron LNG, LLC,* 134 FERC ¶ 61,049 (2011) (FERC amends prior NGA Section 3 import authority to add the additional purpose of exporting LNG).

requests that the DOE/FE issue the export authorization to non-FTA countries conditioned on the FERC's completion of its NEPA review and approval of the facility construction. TLNG Export states that DOE/FE routinely issues orders with such a condition.[19]

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00L (April 29, 2011) and DOE Redelegation Order No. 00–002.04E (April 29, 2011). In reviewing this LNG export Application, DOE will consider any issues required by law or policy. To the extent determined to be relevant or appropriate, these issues will include the impact of LNG exports associated with this Application, and the cumulative impact of any other application(s) previously approved, on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and any other issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should address these issues in their comments and/or protests, as well as any other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicants, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

[19] *See e.g., Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 2961 at 41 (May 20, 2011); *Yukon Pacific Corp.,* ERA Docket No. 87–68–LNG, Order No. 350 (November 16, 1989) (''The DOE believes that energy projects can and must be undertaken consistent with environmentally acceptable practices. To ensure this result, the DOE is attaching a condition to the export approval that all aspects of the export project must be undertaken in accordance with the appropriate environmental review process and must comply with any and all preventative and mitigative measures imposed by Federal or State agencies.''); *see also Rochester Gas and Electric Corp.,* FE Docket No. 90–05–NG, Order No. 503 (May 16, 1991).

Public Comment Procedures

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov* with FE Docket No. 13–04–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office Natural Gas Regulatory Activities at the address listed in **ADDRESSES**. The filing must include a reference to FE Docket No. 13–04–LNG; or (3) hand delivering an original and three paper copies of the filing to the Office of Natural Gas Regulatory Activities at the address listed in **ADDRESSES**. The filing must include a reference to FE Docket No. 13–04–LNG.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application filed by TLNG Export is available for inspection and copying in the Office of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue, SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on March 14, 2013.

John A. Anderson,

Manager, Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Fossil Energy.

[FR Doc. 2013–06385 Filed 3–19–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

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), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, April 17, 2013 5:00 p.m.

ADDRESSES: National Atomic Testing Museum, 755 E. Flamingo Road, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration,

waste management, and related activities.

Tentative Agenda

1. Area 2 Yucca Flat Atmospheric Test Site Evaluation of Corrective Action Alternatives—Work Plan Item #1
2. Overview of the Waste Acceptance Review Panel—Work Plan Item #7
3. Update on Underground Testing Area Activity

Public Participation: The EM SSAB, Nevada, 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 Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx*

Issued at Washington, DC on March 15, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–06384 Filed 3–19–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–91–000]

Gulf South Pipeline Company, LP; Notice of Application

Take notice that on March 1, 2013, Gulf South Pipeline Company, LP (Gulf South), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in Docket No. CP13–91–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), for authorization to abandon by sale or by inter-corporate transfer to its affiliate, Boardwalk Louisiana Intrastate Pipeline Company, LLC, approximately 950 miles of lower-pressure gathering and transmission pipeline, associated meters, one compressor station, and appurtenant and auxiliary facilities located in Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any questions regarding the applications should be directed to J. Kyle Stephens, Vice President, Regulatory Affairs, Gulf South Pipeline Company, LP, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, or call 713–479–8033, or by email to *Kyle.Stephens@bwpmplp.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 3, 2013.

Dated: March 13, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–06336 Filed 3–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–93–000]

Gulf South Pipeline Company, LP; Notice of Application

Take notice that on March 1, 2013, Gulf South Pipeline Company, LP (Gulf South), filed in Docket No. CP13–93–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting authorization to abandon by sale to an affiliated company, Boardwalk Texas Intrastate Pipeline Company, LLC, approximately 535 miles of low/lower-pressure gathering and transmission pipeline, associated meters, four compressor stations, and appurtenant and auxiliary facilities located in East Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Michael E. McMahon or J. Kyle Stephens, Gulf South Pipeline Company, LP, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, or by calling (713) 479–8033 or *Mike.McMahon@bwpmlp.com* or *Kyle.Stephens@bwpmlp.com*.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on April 3, 2013.

Dated: March 13, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–06334 Filed 3–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2744–043]

North East Wisconsin Hydro, LLC: Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New license.

b. *Project No.:* P–2744–043.

c. *Date filed:* February 28, 2013.

d. *Applicant:* North East Wisconsin Hydro, LLC.

e. *Name of Project:* Menominee—Park Mill Hydroelectric Project.

f. *Location:* On the Menominee River in Marinette County, Wisconsin and in Menominee County, Michigan. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Scott Klabunde, North American Hydro Holdings, LLC, P.O. Box 167, 116 North State Street, Neshkoro, WI 54960–0167; or at (920) 293–4628.

i. *FERC Contact:* Lee Emery at (202) 502–8379 or by email at *lee.emery@ferc.gov*.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the

preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: April 29, 2013.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. The existing Menominee—Park Mill Hydroelectric Project consists of two existing developments: Menominee and Park Mill. The Park Mill Development is located about 1 mile upstream of the Menominee Development.

The Menominee Development consists of: (1) A 466.5-foot-long, 24-foot-high existing concrete gravity dam with a normal operating head of 12 feet; (2) an impoundment with a normal operating elevation of 594.0 feet mean sea level (msl) and a surface area of 143 acres; (3) a 204-foot-long concrete and brick powerhouse integral with the dam and located on the Michigan side of the river; (4) two Kaplan turbine units each connected to a 0.458-megawatt (MW) generator and two Kaplan turbine units each connected to a 0.662-MW generator for a combined installed capacity of 2.240 MW; (5) an above ground 24.9-kilovolt (kV) transmission line that connects the project substation to the local utility distribution lines; and (6) other appurtenant facilities.

The Park Mill Development consists of: (1) A 538.58-foot-long, 22-foot-high existing concrete gravity dam with a normal operating head of 16 feet; (2) an impoundment with a normal operating elevation of 610.0 feet msl and a surface area of 539 acres; (3) a 2,400-foot long intake headrace canal; (4) a 138-foot-long stone and brick powerhouse located on the Wisconsin side of the river; (5) one Kaplan turbine unit connected to a 0.225-MW generator, two Francis turbine units each connected to a 0.420-MW generator, two Kaplan turbine units each connected to a 0.430-MW generator, and one Kaplan turbine unit connected to a 0.450-MW generator for a combined installed capacity of 2.375 MW; (6) an above ground 24.9-kV transmission line that connects the project substation to the local utility distribution lines; and (7) other appurtenant facilities.

The project operates in a run-of-river mode. The average annual generation for the project is about 30,455 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Michigan State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance May 2013
Issue Scoping Document 1 for comments June 2013
Comments due on Scoping Document 1 July 2013
Issue notice of ready for environmental analysis September 2013
Issue Environmental Assessment (EA) April 2014
Comments due on EA May 2014

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: March 13, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–06333 Filed 3–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1071–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Notice of Cancellation of Wholesale Market Participation Agreement No. 2372.
Filed Date: 3/12/13.
Accession Number: 20130312–5099.
Comments Due: 5 p.m. ET 4/2/13.

Docket Numbers: ER13–1072–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Original SA No. 2927 in Docket No. ER11–3647–000 to be effective 2/19/2013.
Filed Date: 3/12/13.
Accession Number: 20130312–5125.
Comments Due: 5 p.m. ET 4/2/13.

Docket Numbers: ER13–1073–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Original SA No. 2928 in Docket No. ER11–3648–000 to be effective 2/19/2013.
Filed Date: 3/12/13.
Accession Number: 20130312–5150.
Comments Due: 5 p.m. ET 4/2/13.

Docket Numbers: ER13–1074–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits Notice of Termination of

Generator Interconnection Agreement No. 2300 for Project G968.

Filed Date: 3/12/13.

Accession Number: 20130312–5264.

Comments Due: 5 p.m. ET 4/2/13.

Docket Numbers: ER13–1075–000.

Applicants: Southern California Edison Company.

Description: Amended GIA and Distribution Service Agreement to CSUSB Fuel Cell Project to be effective 3/14/2013.

Filed Date: 3/13/13.

Accession Number: 20130313–5000.

Comments Due: 5 p.m. ET 4/3/13.

Docket Numbers: ER13–1076–000.

Applicants: American Electric Power Service Corporation.

Description: Petition of American Electric Power Service Corporation for limited waiver of Schedule 8.1 of the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region and Request for Expedited Consideration.

Filed Date: 3/12/13.

Accession Number: 20130312–5310.

Comments Due: 5 p.m. ET 4/2/13.

Docket Numbers: ER13–1077–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): SA 1970 between National Grid and Indeck-Yerkes Limited Partnership to be effective 12/26/2012.

Filed Date: 3/13/13.

Accession Number: 20130313–5038.

Comments Due: 5 p.m. ET 4/3/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06380 Filed 3–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP13–101–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Transcontinental Gas Pipe Line Company, LLC submits an application for abandonment of service provided to Atmos Energy Corp. under Rate Schedule FT.

Filed Date: 3/12/13.

Accession Number: 20130312–5295.

Comments Due: 5 p.m. ET 3/18/13.

Docket Numbers: RP12–893–000.

Applicants: Questar Overthrust Pipeline Company.

Description: Questar Overthrust Pipeline Company submits Amended Annual Fuel Gas Reimbursement Report.

Filed Date: 8/15/12.

Accession Number: 20120815–5088.

Comments Due: 5 p.m. ET 3/19/13.

Docket Numbers: RP13–679–000.

Applicants: Kern River Gas Transmission Company.

Description: 2013 Opinion 486F Compliance RP04–274 to be effective 9/1/2011.

Filed Date: 3/11/13.

Accession Number: 20130311–5059.

Comments Due: 5 p.m. ET 3/25/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–481–001.

Applicants: Northern Natural Gas Company.

Description: 20130312 Waiver of Trial by Jury Compliance to be effective 2/28/2013.

Filed Date: 3/12/13.

Accession Number: 20130312–5058.

Comments Due: 5 p.m. ET 3/25/13.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary

[FR Doc. 2013–06379 Filed 3–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL13–51–000, QF11–204–001, QF11–205–001]

Interconnect Solar Development LLC; Notice of Supplemental Filing

Take notice that on March 13, 2013, Interconnect Solar Development LLC filed a Firm Energy Sales Agreement to supplement the March 4, 2013 filed Petition for Enforcement of the Public Utility Regulatory Policies Act of 1978 (PURPA).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public

Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 3, 2013.

Dated: March 13, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–06335 Filed 3–19–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2013–0168; FRL–9792–5]

Adequacy Status of Motor Vehicle Emissions Budgets in Submitted Ozone Maintenance Plan for San Diego County; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that the Agency has found that the motor vehicle emissions budgets (MVEBs) for ozone for the years 2020 and 2025 in the *Redesignation Request and Maintenance Plan for the 1997 National Ozone Standard for San Diego County* (*December 2012*) (''San Diego Ozone Redesignation Request and Maintenance Plan'') are adequate for transportation conformity purposes. The San Diego Redesignation Request and Ozone Maintenance Plan was submitted to EPA on December 28, 2012 by the California Air Resources Board (CARB) as a revision to the California State Implementation Plan (SIP) and includes a maintenance plan for the 1997 8-hour ozone national ambient air quality standard. As a result of our adequacy findings, the San Diego Association of Governments and the U.S. Department of Transportation must use the MVEBs for future conformity determinations.

DATES: This finding is effective April 4, 2013.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 972–3963 or *ungvarsky.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a letter to CARB on March 11, 2013 stating that the MVEBs in the submitted San Diego Ozone Redesignation Request and Maintenance Plan for the years of 2020 and 2025 are adequate. The adequate MVEBs are provided in the following table:

MVEBs in the San Diego Ozone Maintenance Plan

[Average summer day, tons per day]

Budget year	Volatile organic compounds	Oxides of nitrogen
2020	23	38
2025	21	30

Receipt of the MVEBs in the San Diego Ozone Redesignation Request and Maintenance Plan was announced on EPA's transportation conformity Web site on December 20, 2012. We received no comments in response to the adequacy review posting. The finding is available at EPA's transportation conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm.*

Transportation conformity is required by Clean Air Act section 176(c). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4) which was promulgated in our August 15, 1997 final rule (62 FR 43780, 43781–43783). We have further described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004 final rule (69 FR 40004, 40038), and we used the information in these resources in making our adequacy determination. Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

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

Dated: March 12, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013–06404 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0677; FRL–9529–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973 and Prior to May 19, 1978 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 19, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0677, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for

review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 17, 2012 (77 FR 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0677, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* either to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973 and Prior to May 19, 1978 (Renewal).

ICR Numbers: EPA ICR Number 1797.06, OMB Control Number 2060–0442.

ICR Status: This ICR is scheduled to expire on June 30, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart K. Owners or operators of the affected facilities must submit an initial notification report, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required annually at a minimum.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are the owners or operators of petroleum liquid storage vessels.

Estimated Number of Respondents: 220.

Frequency of Response: Initially, occasionally, and annually.

Estimated Total Annual Hour Burden: 769.

Estimated Total Annual Cost: $74,473, which includes $74,473 in labor costs, with no capital/startup costs, or operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in the total estimated respondent cost as currently identified in the OMB Inventory of Approved Burdens. The cost increase from the most recently approved ICR is due to the use of updated labor rates, and is not due to any program changes. This ICR references labor rates from the Bureau of Labor Statistics to calculate the respondent cost burden.

There is no change to either the respondent burden hours or the Agency burden hours and cost in this ICR as compared to the previous ICR. This is due to two considerations: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the respondents is very low, negative, or non-existent. Therefore, the labor hours in the previous ICR reflect the current burden to respondents and are reiterated in this ICR.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–06344 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0699; FRL–9529–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Primary Magnesium Refining (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 19, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0699, to: (1) EPA online, using www.regulations.gov (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number:

(202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 17, 2012 (77 FR 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0699, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Primary Magnesium Refining (Renewal).

ICR Numbers: EPA ICR Number 2098.06, OMB Control Number 2060–0536.

ICR Status: This ICR is scheduled to expire on June 30, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart TTTTT. Owners or operators of the affected facilities must submit an initial notification report, performance tests, and periodic reports and results. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required, semiannually, at a minimum.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 153 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously-applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of primary magnesium refining facilities.

Estimated Number of Respondents: 1.

Frequency of Response: Occasionally and semiannually.

Estimated Total Annual Hour Burden: 611.

Estimated Total Annual Cost: $60,410, which includes $59,210 in labor costs, no capital/startup costs, and $1,200 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two consideration: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden. However, there is an adjustment increase in the total estimated burden costs. The change in the cost estimates occurred because the labor rates have increased since the last ICR. This ICR uses the most recent labor rates in calculating all burden costs.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–06345 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0666; FRL–9529–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Printing and Publishing Industry (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 19, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0666, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12.

On October 17, 2012 (77 FR 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0666, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NESHAP for Printing and Publishing Industry (Renewal).

ICR Numbers: EPA ICR Number 1739.07, OMB Control Number 2060–0335.

ICR Status: This ICR is scheduled to expire on June 30, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart KK.

Owners or operators of the affected facilities must submit an initial notification report, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 95 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of printing and publishing facilities.

Estimated Number of Respondents: 352.

Frequency of Response: Initially, semiannually, and annually.

Estimated Total Annual Hour Burden: 58,162.

Estimated Total Annual Cost: $6,045,789, which includes $5,631,789 in labor costs, no capital/startup costs, and $414,000 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is a small decrease in the respondent labor hours from the most-recently approved ICR due to an adjustment. The previous ICR calculated the burden assuming a percentage of the respondent universe are subject to specific burden activities; in some cases, the calculations included non-integer number of respondents. This ICR uses whole (rounded) values for the number of respondents, which results in an overall decrease in labor hours. There is also a decrease in the Agency burden costs due to a mathematical correction for the review of startup, shutdown, and malfunction reports in the previous ICR.

There is also an adjustment increase in the respondent labor costs. This increase is not due to any program changes; rather, the increase was due to an adjustment in labor rates. This ICR uses updated labor rates to estimate all burden costs.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–06343 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0642; FRL–9528–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Chemical Preparations Industry (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 19, 2013.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2012–0642, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12.

On October 17, 2012 (77 FR 63813), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both the EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2012–0642, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system, at *http://www.regulations.gov,* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidentiality of Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Chemical Preparations Industry (Renewal)

ICR Numbers: EPA ICR Number 2356.03, OMB Control Number 2060–0636

ICR Status: This ICR is scheduled to expire on March 31, 2013. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart BBBBBBB. Owners or operators of the affected facilities must submit an initial notification report, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. At a minimum, reports are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 40 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously- applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of area source chemical preparation facilities.

Estimated Number of Respondents: 26.

Frequency of Response: Semiannually.

Estimated Total Annual Hour Burden: 2,093.

Estimated Total Annual Cost: $203,052, which includes $202,662 in labor costs, no capital/startup costs, and $390 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an adjustment decrease in the total estimated burden for both the respondents and the Agency as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The change in the burden and cost estimates occurred because the standards have been in effect for more than three years and the requirements are different during initial compliance (new facilities) as compared to on-going compliance (existing facilities). The previous ICR reflected those burdens and costs associated with the initial activities for subject facilities. This includes understanding rule requirements, notification of applicability, conducting engineering calculations or obtaining data on performance guarantees to demonstrate initial compliance, and establishing recordkeeping systems. This ICR, by in large, reflects the on-going burden and costs for existing facilities. Activities for existing source include continuous monitoring of pollutants and the submission of semiannual reports. The overall result is a decrease in burden hours and costs. These changes also result in a decrease in O&M costs, which are photocopying and postage costs associated with submittal of notifications and semiannual reports.

This ICR corrects a mathematical mistake in the Agency labor rates. The previous ICR adjusted the labor rates by 160 percent, thereby overestimating the Agency's costs. This ICR corrects the loading rate to 60 percent to account for the benefit packages available to government employees. Additionally, this ICR corrects the frequency of occurrence for the review of semiannual reports from once to twice per year.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–06342 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0152; FRL–9381–3]

Pesticide Chemicals; Registration Review; Draft Human Health and Ecological Risk Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health and ecological risk assessments for the registration review of ancymidol, fosthiazate, lactofen, polybutene resins, quizalofop, and soap salts and opens a public comment period on these documents. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed draft risk assessments for each of the subject chemicals and is making them available for public comment. After reviewing comments received during the public comment period, EPA will issue a revised risk assessment, if appropriate, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation. Through

this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before May 20, 2013.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in Table 1. in Unit III.A., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For information about a particular pesticide included in this document, contact the Chemical Review Manager identified in Table 1. in Unit III.A. for the pesticide of interest.

For general questions on the registration review program, contact: Jane Robbins, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–0048; fax number: (703) 305–8005; email address: *robbins.jane@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in Table 1. in Unit III.A. for the pesticide of interest.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts and/or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is conducting its registration review of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the Agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations for ancymidol, fosthiazate, lactofen, polybutene resins, quizalofop, and soap salts to ensure that they continue to satisfy the FIFRA standard for registration—that is, that these pesticides can still be used without unreasonable adverse effects on human health or the environment.

At this stage in the registration review process, consistent with the proposed notice, published in the **Federal Register** issue of August 17, 2012 (77 FR 49792) (FRL–9356–5), jointly developed with the U.S. Department of Agriculture, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service (''the Services'') to enhance opportunities for stakeholder input during pesticide registration reviews and endangered species consultations, draft environmental risk assessments include a screening-level evaluation of the potential risks to federally listed endangered and threatened species (hereafter referred to as ''listed species''). EPA intends to complete a refined assessment of potential risks to individual listed

species, as needed. The refined listed species assessments will be based on the recommendations of the National Research Council (NRC), which has been tasked with providing advice on ecological risk assessment tools and scientific approaches in developing listed species risk assessments that are compliant with both FIFRA and the Endangered Species Act (ESA). EPA anticipates that the NRC report, expected in Spring 2013, will provide recommendations to ensure scientific soundness and maximize the utility of risk assessment refinements for listed species. Additional information can be found at the following Web site: *http://www8.nationalacademies.org/cp/projectview.aspx?key=49396.* Useful refinements to the listed species assessments are expected to include, but not be limited to, the following:

- More detailed, species-specific ecological and biological data.
- More detailed and accurate information on chemical use patterns.
- Sub-county level spatial proximity data depicting the co-occurrence of potential effects areas and listed species and any designated critical habitat.

In the event that a draft risk assessment shows risks of concern to human health or the environment for a specific chemical, EPA reserves the right to initiate mitigation at this stage of registration review. This effort to mitigate a chemical's risks early in the registration review process is consistent with the Agency's approach for registration review. Where risks are identified early in the registration review process and opportunities for early mitigation exist, the Agency may pursue those opportunities as they arise, rather then waiting for completion of a chemical's registration review in order to mitigate risks. The public comment period for the draft risk assessments allows members of the public to provide comments and suggestions for revising the draft risk assessments and for reducing risks.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and ecological risk assessments for ancymidol, fosthiazate, lactofen, polybutene resins, quizalofop, and soap salts. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied in these draft risk assessments.

The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft human health and ecological risk assessments. EPA will then issue revised risk assessments, if appropriate, and explain any changes to the draft risk assessments, and respond to comments. In the **Federal Register** notice announcing the availability of the revised risk assessments, if any of the revised risk assessments indicate risks of concern, the Agency may provide a comment period for the public to submit suggestions for mitigating the risks identified in those revised risk assessments. At present, EPA is releasing registration review draft risk assessments for the pesticide cases identified in the following table and further described in this unit.

TABLE 1—REGISTRATION REVIEW DRAFT RISK ASSESSMENTS

Registration review case name and No.	Pesticide docket identification No.	Chemical review manager, telephone No., and email address
Ancymidol, Case No. 3017	EPA–HQ–OPP–2011–0482	Christina Scheltema, (703) 308–2201, *scheltema.christina@epa.gov.*
Fosthiazate, Case No. 7604	EPA–HQ–OPP–2009–0267	Khue Nguyen, (703) 347–0248, *nguyen.khue@epa.gov.*
Lactofen, Case No. 7210	EPA–HQ–OPP–2005–0287	Kelly Ballard, (703) 305–8126, *ballard.kelly@epa.gov.*
Polybutene resins, Case No. 4076	EPA–HQ–OPP–2009–0649	Joel Wolf, (703) 347–0228, *wolf.joel@epa.gov.*
Quizalofop, Case No. 7215	EPA–HQ–OPP–2007–1089	Khue Nguyen, (703) 347–0248, *nguyen.khue@epa.gov.*
Soap salts, Case No. 4083	EPA–HQ–OPP–2008–0519	Monica Wait, (703) 347–8019, *wait.monica@epa.gov.*

- *Ancymidol.* The registration review docket for ancymidol (EPA–HQ–OPP–2011–0482) opened in the **Federal Register** issue of June 29, 2011 (76 FR 38166) (FRL–8877–4). Ancymidol is a plant growth regulator that acts by inhibiting giberillin biosynthesis, resulting in plants with more compact growth. Ancymidol is registered for use only on container grown greenhouse and nursery ornamentals. It is used only on plants grown for commercial production and has no food, feed, or residential uses. The Final Work Plan for ancymidol described numerous data requirements for registration review, and a registration review timeline that included the issuance of a data call-in. However, EPA has revisited the timeline and data requirements for registration review and determined that a data call-in is not necessary for ancymidol. The Agency has conducted qualitative environmental and human health risk assessments for ancymidol based on the available information and on limited use of this pesticide active ingredient.

- *Fosthiazate.* The registration review docket for fosthiazate (EPA–HQ–OPP–2009–0267) opened in the **Federal Register** issue of June 24, 2009 (74 FR 30077) (FRL–8422–4). Fosthiazate is an organophosphate nematicide and insecticide that is currently registered for use on tomatoes. The Agency has conducted a human health risk assessment for both dietary (food and drinking water) and occupational exposure pathways. The Agency has also conducted a quantitative ecological risk assessment, which includes a screening-level listed species assessment. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

- *Lactofen.* The registration review docket for lactofen (EPA–HQ–OPP–2005–0287) opened in the **Federal Register** issue of February 2, 2007 (72 FR 5050) (FRL–8113–1). Lactofen is a light dependent peroxidizing herbicide (LDPH), and is registered for use on conifer seedlings, cotton, kenaf, peanuts, and soybean, with local registrations on fruiting vegetables, okra, snap beans, and strawberries. For lactofen, the Agency has conducted an occupational handler exposure risk assessment for the application of lactofen on conifer seedlings, snap beans, soybeans, and strawberries. The Agency has also conducted an ecological risk assessment, which includes a screening-level listed species assessment. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment

on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

• *Polybutene resins.* The registration review docket for polybutene resins (EPA–HQ–OPP–2009–0649) opened in the **Federal Register** issue of June 23, 2010 (75 FR 35810) (FRL–8832–3). Polybutene is a sticky polymer registered for use as a bird and small mammal repellent. It is used to prevent house sparrows, pigeons, and starlings from roosting inside and outside of buildings, as well as to prevent beavers from attacking trees and shrubs. There are no food/feed uses and, it is exempt from a tolerance requirement when used as a sticker agent in packaging of insect control products used on food crops. Polybutene is approved by the Food and Drug Administration (FDA) as an indirect food additive and is used as an ingredient in cosmetic products that are applied directly to the skin such as sun block or moisturizer, and that may be incidentally ingested, such as lipstick. EPA has conducted a qualitative assessment for both human health and environmental fate and ecological risks.

• *Quizalofop.* The registration review docket for quizalofop ethyl and quizalofop-*p*-ethyl (EPA–HQ–OPP–2007–1089) opened in the **Federal Register** issue of December 19, 2007 (72 FR 71893) (FRL–8342–9). Quizalofop ethyl is a 50/50 racemic mixture of *R*- and *S*-enantiomers; quizalofop-*p*-ethyl is the purified *R*-enantiomer which is pesticidally active. Quizalofop-*p*-ethyl is registered for use to control weeds in food crops (including barley, beans, lentil, peas, sorghum, soybean, and sugar beets), non-food crops grown for seed (including alfalfa, carrots, garlic, onion, radish, and spinach), and non-cropland (including rights-of-way and fencerows). Quizalofop-*p*-ethyl is not registered for residential use. The Agency has conducted a human health assessment for both dietary (food and drinking water) and occupational exposure pathways. The Agency has conducted a quantitative ecological risk assessment, including a listed species assessment, for quizalofop. EPA acknowledges that further refinements to the listed species assessment may be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

• *Soap salts.* The registration review docket for soap salts (EPA–HQ–OPP–2008–0519) opened in the **Federal Register** issue of September 15, 2008 (73 FR 53244) (FRL–8381–3). The case consists of three active ingredients, the ammonium, potassium, and sodium salts of fatty acids, which are registered for use as acaricides, algaecides, herbicides, and insecticides on food and non-food crops in various settings, chiefly residential and agricultural. Ammonium and sodium soap salts are also used as animal repellents. Because the Agency has not identified any toxicological endpoints for human health risk assessment and because current product labels are adequate to protect for potential eye and skin irritation, a qualitative human health risk assessment was conducted for soap salts. The Agency has conducted a quantitative ecological risk assessment, which includes a screening-level listed species assessment. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

1. *Other related information.* Additional information on ancymidol, fosthiazate, lactofen, polybutene resins, quizalofop, and soap salts is available on the chemical pages for these pesticides in Chemical Search, *http://www.epa.gov/pesticides/chemicalsearch,* and in each chemical's individual docket listed in Table 1. in Unit III.A. Information on the Agency's registration review program and its implementing regulation is available at *http://www.epa.gov/oppsrrd1/registration_review.*

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

• To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

• The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information.

• Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Ancymidol, Fosthiazate, Lactofen, Pesticides and pests, Polybutene resins, Quizalofop, Soap salts.

Dated: March 12, 2013.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2013–06406 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0938; FRL–9374–7]

Pesticide Reregistration Performance Measures and Goals; Annual Progress Report; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of EPA's progress report in meeting its performance measures and goals for pesticide reregistration during fiscal year 2012.

FOR FURTHER INFORMATION CONTACT: Carol P. Stangel, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8007; email address: *stangel.carol@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA announcing the availability of this report?

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to publish information about EPA's annual achievements in meeting its performance measures and goals for pesticide reregistration. The report for fiscal year 2012 discusses the integration of tolerance reassessment with the reregistration process, and describes the status of various regulatory activities associated with reregistration and tolerance reassessment. The 2012 report also gives total numbers of products reregistered and products registered under the ''fast-track'' provisions of FIFRA.

II. How can I get a copy of the 2012 report?

1. *Docket.* The 2012 report is available at *http://www.regulations.gov,* under

docket ID number EPA–HQ–OPP–2012–0938.

2. *EPA Web site.* The 2012 report is also available on EPA's Web site at *http://www.epa.gov/pesticides/reregistration/reports.htm.*

III. Can I comment on this report?

Although not subject to a formal comment period, EPA welcomes input from stakeholders and the general public. Written comments, identified by the docket identification number EPA–HQ–OPP–2012–0938, would be most helpful if received by EPA on or before May 20, 2013.

Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2012–0938, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 11, 2013.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2013–06314 Filed 3–19–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. A Copy of the agreement is available through the Commission's Web site (www.fmc.gov) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011426–054.

Title: West Coast of South America Discussion Agreement.

Parties: Compania Chilena de Navigacion Interoceanica, S.A.; Compania Sud Americana de Vapores, S.A.; Frontier Liner Services, Inc.; Hamburg-Süd; Interocean Lines, Inc.; King Ocean Services Limited, Inc.; Mediterranean Shipping Company, SA; Seaboard Marine Ltd.; South Pacific Shipping Company, Ltd. (dba Ecuadorian Line); and Trinity Shipping Line.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The amendment deletes Peru from the geographic scope of the agreement.

By Order of the Federal Maritime Commission.

Dated: March 15, 2013.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2013–06391 Filed 3–19–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Notice of Availability of Service Contract Inventories

AGENCY: Federal Maritime Commission.

ACTION: Notice of availability of service contract inventories.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary at 202–523–5725, or *secretary@fmc.gov.*

In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Federal Maritime Commission is publishing this notice to advise the public of the availability of the FY 2011 Service Contract Inventory Analysis, the FY 2012 Service Contract Inventory, and the FY 2012 Service Contract Inventory Planned Analysis. The FY 2011 inventory analysis provides information on specific service contract actions that were analyzed as part of the FY 2011 inventory. The FY 2012 inventory provides information on service contract actions over $25,000 that were made in FY 2012. The inventory 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/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The FY 2012 inventory planned analysis provides information on which functional areas will be reviewed by the agency. The Federal Maritime Commission has posted its FY 2012 inventory, FY 2012 inventory analysis, and FY 2011 inventory analysis at the following link:*http://www.fmc.gov/bureaus_offices/office_of_management_services.aspx.*

Authority: Sec. 743, Pub. L.111–117.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–06317 Filed 3–19–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

All Express Cargo, LLC. (NVO & OFF), 7410 SW. 48th Street, Miami, FL 33155, Officers: Tibisay Tovar, Member (QI), Sergio J. Sicilia, Member, Application Type: New NVO & OFF License.

Brookfield Relocation Inc. (OFF), Two Corporate Drive, Suite 440, Shelton, CT 06484, Officers: Susan Dumire, Assistant Vice President (QI), Richard Schwartz, President, Application Type: QI Change.

Covenant Global Logistics Inc (NVO & OFF), 440 Benmar Drive, Suite 1100, Houston, TX 77060, Officers: Mabel G. Gold, Vice President (QI), Ronald E. Gold, President, Application Type: Add Trade Name CGL Shipping.

EXL Logistics, Inc. (NVO), 1444 NW 82nd Avenue, Miami, FL 33126, Officers: Marcelo Kroeff, Vice President (QI), Andrea Landan, Secretary, Application Type: New NVO License.

Global Parcel System LLC (NVO & OFF), 8240 NW 30th Terrace, Miami, FL 33122, Officer: Alejandro Alvarez, Managing Member (QI), Application Type: New NVO & OFF License.

Graylion Logistics, LLC (NVO & OFF), 8515 Baymeadows Way, Suite 303, Jacksonville, FL 32256, Officers: Glenn R. Patch, President (QI), Michael R. Huntley, Vice President, Application Type: QI Change.

Innocent Peter Ajaroh (NVO & OFF), 10661 Rockley Road, Houston, TX 77099, Officer: Innocent L. Emedo, Managing Member (QI), Application Type: Business Structure Change to Innglo Global Shipping LLC.

Menn Logistics, Inc. (NVO & OFF), 8505 NW 123rd Place, Kirkland, WA 98034, Officer: Anna Nickolaychuk, President (QI), Application Type: New NVO & OFF License.

Sea Marine Transport, LLC dba Sea Marine Freight Forwarding (NVO & OFF), 4900 Woodway Drive, Suite 110, Houston, TX 77056, Officer: Moises Sarabia Leon, Manager (QI), Application Type: New NVO & OFF.

Tripoli Shipping Services Inc. (OFF), 725 FM 1959 No. 1409, Houston, TX 77034, Officers: Misel Repak, COO (QI), Salem Abudher, CEO, Application Type: New OFF.

By the Commission.

Dated: March 15, 2013.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–06395 Filed 3–19–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 4035F.
Name: Dynamic International Cargo Corp.
Address: 7500 NW 25th Street, Unit 7, Miami, FL 33122.
Date Revoked: February 28, 2013.
Reason: Voluntary Surrender of License.

License No.: 16044F.
Name: Atlas International Freight Forwarding (USA) Inc. dba Atlas Cargo.
Address: 6172 NW 74th Avenue, Miami, FL 33166.
Date Revoked: February 22, 2013.
Reason: Failed to maintain a valid bond.

License No.: 17641N.
Name: Best Raider Cargo Express, Ltd.
Address: 66 West Merrick Road, Valley Stream, NY 11580.
Date Revoked: February 21, 2013.
Reason: Failed to maintain a valid bond.

License No.: 18134N.
Name: KSO Container Inc.
Address: 9000 Bellanca Avenue, Suite 108, Los Angeles, CA 90045
Date Revoked: February 4, 2013.
Reason: Failed to maintain a valid bond.

License No.: 018789N.
Name: Cargo Agents, Inc.
Address: 143–30 38th Avenue, Suite 1–H, Flushing, NY 11354.
Date Revoked: December 8, 2012.
Reason: Failed to maintain a valid bond.

License No.: 019990NF.
Name: TMO Global Logistics, LLC.
Address: 200 Garrett Street, Suite M, Charlottesville, VA 22902.
Date Revoked: February 22, 2013.
Reason: Failed to maintain valid bonds.

License No.: 020526NF.
Name: Gamma International Logistics Inc. dba Logistix Container Line.
Address: 9700 NW 17th Street, Miami, FL 33172.
Date Revoked: January 29, 2013.
Reason: Failed to maintain valid bonds.

License No.: 021485N.
Name: Global Link Express Corp.
Address: 12711 NW 102nd Court, Hialeah Gardens, FL 33018
Date Revoked: February 26, 2013.
Reason: Voluntary Surrender of License.

License No.: 022088NF.
Name: CNS Logistics, Inc.
Address: 14251 East Firestone Blvd., La Mirada, CA 90638.
Dates Revoked: January 30, 2013 (022088F) & February 24, 2013 (022088N)
Reason: Failed to maintain valid bonds.

License No.: 023685N.
Name: Florida International Enterprises, Inc.
Address: 7675 NW 66th Street, Miami, FL 33166.
Date Revoked: February 18, 2013.
Reason: Failed to maintain a valid bond.

Vern W. Hill,

Director, Bureau of Certification and Licensing.

[FR Doc. 2013–06400 Filed 3–19–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 4, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *William Henry Carr, Enterprise, Alabama, and Jerry Newman Carr,* Cornelius, North Carolina; to acquire voting shares of Enterprise Capital Corporation, Inc., and thereby indirectly acquire voting shares of The Citizens Bank, both in Enterprise, Alabama.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Sharon L. Hearns Irrevocable Family Trust; James E. Hearns, as trustee of the Sharon L. Hearns Irrevocable Family Trust; James E. Hearns and Sharon L. Hearns, all of Naples, Florida, Keith E. Hearns and Natalie Guetierrez-Hearns, both of New Lenox, Illinois, and Gregory F. Steil,* Hinsdale, Illinois, together as a group acting in concert, to acquire voting shares of LWCBancorp, Inc., and thereby indirectly acquire voting shares of LincolnWay Community Bank, both in New Lenox, Illinois.

Board of Governors of the Federal Reserve System, March 15, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–06370 Filed 3–19–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies

owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 15, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Old Florida Bancshares, Inc.,* Orlando, Florida; to acquire 100 percent of the voting shares of New Traditions National Bank, Orlando, Florida.

Board of Governors of the Federal Reserve System, March 15, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–06371 Filed 3–19–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED FEBRUARY 1, 2013 THRU FEBRUARY 28, 2013

02/01/2013		
20130419	G	NCR Corporation; Retalix Ltd.; NCR Corporation.
20130471	G	Sun Pharmaceutical Industries Limited; Takeda Pharmaceutical Company Limited; Sun Pharmaceutical Industries Limited.
20130502	G	GT Nexus, Inc.; Warburg Pincus Equity Partners Liquidating Trust; GT Nexus, Inc.
20130503	G	Warburg Pincus Equity Partners Liquidating Trust; GT Nexus, Inc.; Warburg Pincus Equity Partners Liquidating Trust.
20130523	G	Parkland Fuel Corporation; AvenEx Energy Corp.; Parkland Fuel Corporation.
20130533	G	athenahealth, Inc.; Epocrates, Inc.; athenahealth, Inc.
20130542	G	Energy Capital Partners II–A, L.P.; EnergySolutions, Inc. Energy Capital Partners II–A, L.P.
20130545	G	John C. Martin, Ph.D.; Gilead Sciences, Inc.; John C. Martin, Ph.D.
20130547	G	Jindal Poly Films Limited; Exxon Mobil Corporation; Jindal Poly Films Limited.
20130548	G	Global Partners LP; Mason M. Evans; Global Partners LP.
02/04/2013		
20130480	G	Baxter International Inc.; Investor AB; Baxter International Inc.
20130550	G	Sauder Holdings Ltd.; Rayonier Inc.; Sauder Holdings Ltd.
20130557	G	AB Acquisition LLC; SUPERVALU INC.; AB Acquisition LLC.
02/05/2013		
20130530	G	Knight Capital Group, Inc.; GETCO Holding Company, LLC; Knight Capital Group, Inc.
20130531	G	GETCO Holding Company, LLC; Knight Capital Group, Inc.; GETCO Holding Company, LLC.
20130536	G	Health Care Service Corporation; Blue Cross and Blue Shield of Montana, Inc.; Health Care Service Corporation.
20130537	G	GA–GTCO Interholdco, LLC; Holdco; GA–GTCO Interholdco, LLC.
02/06/2013		
20130556	G	Centene Corporation; Enhanced Equity Fund II, L.P.; Centene Corporation.
20130561	G	Allergan, Inc.; MAP Pharmaceuticals, Inc.; Allergan, Inc.
02/08/2013		
20130559	G	Siemens Aktiengesellschaft; Invensys plc; Siemens Aktiengesellschaft.
20130565	G	Integrys Energy Group, Inc.; ITOCHU Corporation; Integrys Energy Group, Inc.
20130566	G	Integrys Energy Group, Inc.; General Electric Company; Integrys Energy Group, Inc.
20130573	G	Fidelity National Information Services, Inc.; mFoundry, Inc.; Fidelity National Information Services, Inc.
02/11/2013		
20130570	G	E-Land World Ltd.; K-Swiss Inc.; E-Land World Ltd.

EARLY TERMINATIONS GRANTED FEBRUARY 1, 2013 THRU FEBRUARY 28, 2013—Continued

		02/12/2013
20130521	G	Highmark Inc.; Sisters of Saint Joseph of Northwestern Pennsylvania; Highmark Inc.
		02/13/2013
20130554	G	Elliott Associates, L.P.; Hess Corporation; Elliott Associates, L.P.
20130555	G	Elliott International Limited; Hess Corporation; Elliott International Limited.
		02/14/2013
20130538	G	Care New England Health System, Inc.; Southeastern Healthcare System, Inc.; Care New England Health System, Inc.
		02/15/2013
20130582	G	The Lion Fund, L.P.; Biglari Holdings Inc.; The Lion Fund, L.P.
20130583	G	ACI Worldwide, Inc.; Online Resources Corporation; ACI Worldwide, Inc.
20130584	G	Garnett & Helfrich Capital, L.P.; Pervasive Software Inc.; Garnett & Helfrich Capital, L.P.
20130585	G	James C. Flores; Freeport-McMoRan Copper & Gold Inc.; James C. Flores.
20130586	G	Berkshire Fund VIII, L.P.; AEA Investors 2006 Fund L.P.; Berkshire Fund VIII, L.P.
20130588	G	Oracle Corporation; Acme Packet, Inc.; Oracle Corporation.
20130594	G	Praxair, Inc.; Aurora Equity Partners III L.P.; Praxair, Inc.
20130595	G	MSG SAV LP MSG Interposed LP; MSG SAV LP.
20130597	G	Ronald M. Simon; Onex Partners II LP; Ronald M. Simon.
20130598	G	Ronald M. Simon; Ronald M. Simon; Ronald M. Simon.
		02/19/2013
20130589	G	Denbury Resources Inc.; ConocoPhillips; Denbury Resources Inc.
20130590	G	Lindsay Goldberg III CR AIV L.P.; LaFarge S.A.; Lindsay Goldberg III CR AIV L.P.
		02/20/2013
20130553	G	Leucadia National Corporation; Knight Capital Group, Inc.; Leucadia National Corporation.
20130572	G	NETGEAR, Inc.; Sierra Wireless, Inc.; NETGEAR, Inc.
20130591	G	Valeant Pharmaceuticals International, Inc.; Eisai Co., Ltd.; Valeant Pharmaceuticals International, Inc.
20130596	G	H.I.G. Capital Partners IV, L.P.; Raymond and Alice Wong; H.I.G. Capital Partners IV, L.P.
		02/21/2013
20130587	G	JLL Partners Fund VI, L.P.; BioClinica, Inc.; JLL Partners Fund VI, L.P.
		02/22/2013
20130567	G	Daniel B. Gilbert; Greektown Superholdings, Inc.; Daniel B. Gilbert.
		02/25/2013
20130579	G	Lite-On Technology Corporation; Lite-On IT Co., Ltd.; Lite-On Technology Corporation.
20130605	G	B&C Privatstiftung; AMAG Austria Metall AG; B&C Privatstiftung.
20130607	G	ABRY Partners VII, L.P.; Datapipe Holding Company, Inc.; ABRY Partners VII, L.P.
20130608	G	One Rock Capital Partners, L.P.; MVC Capital, Inc.; One Rock Capital Partners, L.P.
20130609	G	Norbert W. Bischofberger, Ph.D.; Gilead Sciences, Inc.; Norbert W. Bischofberger, Ph.D.
20130611	G	Reliance Steel & Aluminum Co.; Metals USA Holdings Corp.; Reliance Steel & Aluminum Co.
20130616	G	Eastern Maine Healthcare Systems; Catholic Health East; Eastern Maine Healthcare Systems.
		02/26/2013
20130593	G	Marcato International Ltd.; Lear Corporation; Marcato International Ltd.
		02/27/2013
20130252	G	Bertelsmann Stiftung; Newco Bertelsmann Stiftung.
20130562	G	TPG VI DE AIV II, LP; ConvergEx Holdings, LLC TPG VI DE AIV II, LP.
20130617	G	Paine & Partners Capital Fund Ill, L.P.; Sun Capital Partners V, L.P.; Paine & Partners Capital Fund III, L.P.

For Further Information Contact: Renee Chapman, Contact Representative

or

Theresa Kingsberry, Legal Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2013–06061 Filed 3–19–13; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier HHS–OS–19144–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary(OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before May 20, 2013.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–19144–60D for reference.

Information Collection Request Title: WHAM: Women's Health and Mindfulness Program.

Abstract: The Women's Health and Mindfulness (WHAM) program, developed in San Francisco, aims to test interventions that promote healthy weight in lesbian and bisexual (LB) women age 40 years and older. The project to test the interventions is scheduled for one year.

Need and Proposed Use of the Information: The Office of Women's Health (OWH) and the Department of Health and Human Services (HHS) Coordinating Committee on Lesbian, Gay, Bi-sexual and Transgender (LGBT) Issues has prioritized the collection of health data on LGBT populations. In response, OWH funded an initiative to identify and test effective and innovative ways of reducing obesity in lesbian and bisexual women. The information collected in this ICR tests two approaches to reducing obesity in the LB population. The first is a community-level health system intervention that responds to Goal 4, Strategy 4–1 of the 2012 Institute of Medicine (IOM) report ''*Accelerating Progress in Obesity Prevention:* Solving the Weight of the Nation;'' and the second is an innovative group support program that combines mindfulness-based stress reduction, nutrition, and physical activity that will be evaluated for its feasibility and evidence of effect on short-term outcomes.

Likely Respondents: Lesbian and bi-sexual women age 40 years and older.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Health Center Systems Intervention Evaluation				
Knowledge and Attitudes Assessment (Pre-training)	40	1	5/60	3
Knowledge and Attitudes Assessment (Post-training)	40	1	5/60	3
Group Intervention				
Assessments for All Participants: Sequence 1 (Immediate Intervention Start) and Sequence 2 Comparison Group (Delayed Intervention Start at Month 5)				
Group Intervention Screening Questionnaire	120	1	10/60	20
Evaluation Questionnaire:—Baseline	80	1	45/60	60
Interim Behavioral Assessment—Month 1	80	1	10/60	13
Accelerometer: Activity Diary and Reminder	40	3	20/60	40
Evaluation Questionnaire: Follow-up—Month 5	80	1	30/60	40
Assessments for Sequence 2 Comparison Group Participants Only (Delayed Intervention Start at Month 5)				
Interim Behavioral Assessment—Month 6	40	1	10/60	7
Evaluation Questionnaire: Follow-up—Month 10	40	1	30/60	20
Total				179

OS specifically requests comments on (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Keith A. Tucker,

Information Collection Clearance Officer.

[FR Doc. 2013–06347 Filed 3–19–13; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting Notice for the President's Advisory Council on Faith-Based and Neighborhood Partnerships

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the President's Advisory Council on Faith-Based and Neighborhood Partnerships announces the following three conference calls:

Name: President's Advisory Council on Faith-based and Neighborhood Partnerships Council Conference Calls.

Time and Date: Monday, April 2nd, 2013 4:00 p.m.-5:30 p.m. (EDT).

Place: All meetings announced herein will be held by conference call. The call-in line is: 1–866–823–5144, Passcode: 1375705. Space is limited so please RSVP to *partnerships@hhs.gov* to participate.

Status: Open to the public, limited only by lines available.

Purpose: The Council brings together leaders and experts in fields related to the work of faith-based and neighborhood organizations in order to: Identify best practices and successful modes of delivering social services; evaluate the need for improvements in the implementation and coordination of public policies relating to faith-based and other neighborhood organizations; and make recommendations for changes in policies, programs, and practices.

Contact Person for Additional Information: Please contact Ben O'Dell for any additional information about the President's Advisory Council meeting at *partnerships@hhs.gov.*

Agenda: Please visit *http://www.whitehouse.gov/partnerships* for further updates on the Agenda for the meeting.

Public Comment: There will be an opportunity for public comment at the conclusion of the meeting. Comments and questions can be asked over the conference call line, or sent in advance to *partnerships@hhs.gov.*

Dated: March 14, 2013.

Ben O'Dell,

Associate Director for Center for Faith-based and Neighborhood Partnerships at U.S. Department of Health and Human Services.

[FR Doc. 2013–06405 Filed 3–19–13; 8:45 am]

BILLING CODE 4154–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meetings of the National Biodefense Science Board

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the National Biodefense Science Board (NBSB) will be holding public meetings on April 2 and April 3, 2013.

DATES: The April 2, 2013, NBSB public meeting is tentatively scheduled from 9:00 a.m. to 5:00 p.m. The April 3, 2013, public meeting will be held jointly with the Centers for Disease Control and Prevention Board of Scientific Counselors (BSC), Office of Public Health Preparedness and Response (OPHPR), is tentatively scheduled from 8:30 a.m. to 3:30 p.m. The agendas for both April 2 and 3, 2013, meetings are subject to change as priorities dictate, and it is possible that they may be held by teleconference rather than in person. Please check the NBSB Web site at *WWW.PHE.GOV/NBSB* for the most up-to-date information.

ADDRESSES: April 2, 2013: Centers for Disease Control and Prevention (CDC), 1600 Clifton Road NE., Roybal Campus, Atlanta, Georgia 30329, Building 19, Room 117.

April 3, 2013: CDC, 1600 Clifton Road NE., Roybal Campus, Atlanta, Georgia 30329, Building 19, Room 256.

To attend by teleconference, please refer to the NBSB Web site for further instructions at *www.phe.gov/nbsb.* Please call in 15 minutes prior to the beginning of the meeting to facilitate attendance.

Additional Information for Public Participants: These meetings are open to the public and are limited only by the space available. Meeting rooms will accommodate up to 30 people. Pre-registration is required for in-person attendance. Individuals who wish to attend the meeting in-person should send an email to *NBSB@HHS.GOV* with ''NBSB Registration'' in the subject line by no later than Monday, March 25, 2013.

FOR FURTHER INFORMATION CONTACT: The National Biodefense Science Board mailbox: *NBSB@HHS.GOV.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (42 U.S.C. 247d-7f) and section 222 of the Public Health Service Act (42 U.S.C. 217a), the Department of Health and Human Services established the National Biodefense Science Board.

The Board shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to the Department of Health and Human Services (HHS) regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The Board may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response (ASPR) on other matters related to public health emergency preparedness and response.

Background: The April 2, 2013, public meeting will be dedicated to a discussion and vote of the report and recommendations from the NBSB's Public Health and Healthcare Situational Awareness Strategy and Implementation Plan Working Group. Subsequent agenda topics will be added as priorities dictate. The April 3, 2013, meeting will include a joint Federal Advisory Committee briefing, deliberation and vote on the recommendations and report written by the joint BSC OPHPR–NBSB Strategic National Stockpile ad hoc working group. Any additional agenda topics will be available on the NBSB's April 2013 meeting Web page prior to the public meeting, available at *WWW.PHE.GOV/NBSB.*

Availability of Materials: The meeting agenda and materials will be posted on the NBSB Web site at *WWW.PHE.GOV/NBSB* prior to the meeting.

Procedures for Providing Public Input: Any member of the public providing oral comments at the meeting must sign-in at the registration desk and provide his/her name, address, and affiliation. All written comments must be received prior to March 29, 2013, and should be sent by email to *NBSB@HHS.GOV* with ''NBSB Public Comment'' as the subject line. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should email *NBSB@HHS.GOV.*

Dated: March 14, 2013.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2013–06308 Filed 3–19–13; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed changes to the currently approved

information collection project: ''Medical Expenditure Panel Survey—Insurance Component.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on December 26th, 2012 and allowed 60 days for public comment. Two comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by April 19, 2013.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer.)

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Expenditure Panel Survey—Insurance Component

Employer-sponsored health insurance is the source of coverage for 85 million current and former workers, plus many of their family members, and is a cornerstone of the U.S. health care system. The Medical Expenditure Panel Survey—Insurance Component (MEPS–IC) measures the extent, cost, and coverage of employer-sponsored health insurance on an annual basis. Private industry statistics are produced at the National, State, and sub-State (metropolitan area) level and State and local government statistics at the National and Census Region level.

The MEPS–IC was last approved by OMB on December 12th, 2012 and will expire on December 31st, 2014. The OMB control number for the MEPS–IC is 0935–0110. All of the supporting documents for the current MEPS–IC can be downloaded from OMB's Web site at *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201110-0935-001.*

The current MEPS–IC clearance noted the possibility of making changes to the 2013 MEPS–IC survey in order to address data needs for the Patient Protection and Affordable Care Act (PPACA) and other issues. AHRQ solicited input on possible new questions from a working group of over 50 individuals that included multiple representatives from the U.S. Department of Health and Human Services' Assistant Secretary for Planning and Evaluation (ASPE), the Center for Medicare & Medicaid Services' (CMS) Center for Consumer Information and Insurance Oversight, the CMS Office of the Actuary, the National Center for Health Statistics, the President's Council of Economic Advisors, the Office of Management and Budget, the Bureau of Labor Statistics, the Employee Benefits Security Administration, and the Bureau of the Census.

After the working group agreed on a reasonable number of specific questions, the Bureau of the Census, at AHRQ's direction, conducted a pretest of these questions on a sampled set of 2012 MEPS–IC survey respondents. A telephone pretest was conducted in the spring and summer of 2012. The results of this pretest, conducted under the Census Bureau's generic pretest clearance process, led to AHRQ recommending that a subset of the tested questions be added to the survey in 2013. To avoid increasing the overall burden on survey respondents, a proportional number of questions have been proposed for deletion. Questions identified for deletion were those with limited analytic value and/or below-average response rates. The AHRQ recommendations were accepted by the HHS Data Council in November 2012.

For all establishment-level MEPS–IC forms, AHRQ proposes to make the following changes to questions asked of employers who offer health insurance:

Additions

- Did your organization offer health insurance to unmarried domestic partners of the same sex? Yes/No/Don't Know
- Did your organization offer health insurance to unmarried domestic partners of the opposite sex? Yes/No/Don't Know

Deletions

- For 2013, what was the TYPICAL waiting period before new employees could be covered by health insurance? Less than 2 weeks/2 weeks to less than 1 month/Until the first day of the next month/1–3 months/More than 3 months
- Did your organization place any limits or restrictions on health insurance coverage for the spouse of an employee if the spouse had access to coverage through another employer? Yes/No/Don't Know

For all plan-level MEPS–IC forms, AHRQ proposes to make the following changes:

Additions

- (For self-insured health plans that purchase stop-loss coverage) What is the specific stop-loss coverage amount per employee? $____.00
- Did the premiums for this insurance plan vary by any of these characteristics? Smoker/nonsmoker will be added to current list of Age, Gender, Wage or Salary levels, and Other. The ''Premiums did not vary'' response checkbox will be deleted and replaced with Yes/No/Don't Know responses for each characteristic.
- Did the amount an employee contributed toward his/her own coverage vary by any of these employee characteristics? Participation in a fitness/weight loss program and participation in a smoking cessation program will be added to the current list of Hours worked, Union status, Wage or salary level, Occupation, Length of employment, and Other. The ''Employee contribution did not vary'' response checkbox will be deleted and replaced with Yes/No/Don't Know responses for each characteristic.
- Which of the services listed were covered by the plan? Routine vision care for children, Routine dental care for children, Mental health care, and Substance abuse treatment will be added Routine vision care for adults and Routine dental care for adults will replace Routine vision care and Routine dental care respectively Chiropractic care remains unchanged
- Is this a Grandfathered health plan as defined by the Affordable Care Act? Yes/No/Don't know

Deletions

- How many different pricing categories or tiers of prescription drug coverage were there for this plan? Number of tiers ____ or Don't know
- What was the MAXIMUM amount this plan would have paid for an enrollee in ONE YEAR? $____ or No annual maximum
- An employer can offer a Health Reimbursement Arrangement (HRA) by setting up an account to reimburse employees for medical expenses not covered by health insurance. Did your organization offer an HRA associated with this plan in 2013? HRAs are NOT Flexible Spending Accounts

(FSAs) or Health Savings Accounts (HSAs). Yes/No/Don't Know

The MEPS Definitions form—MEPS–20(D)—will also be updated with new definitions for terms used in these new questions (and the deletion of terms used only in the deleted questions).

There are no changes to the 2013 MEPS–IC survey estimates of cost and hour burdens due to these proposed question changes. The response rate for the MEPS–IC survey also is not expected to change due to these proposed changes.

The MEPS–IC is conducted pursuant to AHRQ's statutory authority to conduct surveys to collect data on the cost, use and quality of health care, including the types and costs of private health insurance. 42 U.S.C. 299b–2(a).

Method of Collection

There are no changes to the current data collection methods.

Estimated Annual Respondent Burden

There are no changes to the current burden estimates.

Estimated Annual Costs to the Federal Government

There are no changes to the current cost estimates.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 4, 2013.

Carolyn M. Clancy,

Director.

[FR Doc. 2013–06217 Filed 3–19–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From QAISys, Inc.

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act), Public Law 109–41, 42 U.S.C. 299b–21— b–26, provides for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule), 42 CFR part 3, authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found no longer to meet the requirements of the Patient Safety Act and Patient Safety Rule, or when a PSO chooses to voluntarily relinquish its status as a PSO for any reason. AHRQ has accepted a notification of voluntary relinquishment from QAISys, Inc. of its status as a PSO, and has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on January 31, 2013.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/index.html.*

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity is to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule (PDF file, 450 KB. PDF Help) relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found no longer to meet the requirements of the Patient Safety Act and Patient Safety Rule, or when a PSO chooses to voluntarily relinquish its status as a PSO for any reason. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from QAISys, Inc., PSO number P0046, to voluntarily relinquish its status as a PSO. Accordingly, QAISys, Inc. was delisted effective at 12:00 Midnight ET (2400) on January 31, 2013.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.AHRQ.gov/index.html.*

Dated: March 4, 2013.

Carolyn M. Clancy,

Director.

[FR Doc. 2013–06215 Filed 3–19–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From Universal Safety Solution PSO

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act), Public Law 109–41, 42 U.S.C. 299b–21—b–26, provides for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule), 42 CFR part 3, authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found no longer to meet the requirements of the Patient Safety Act and Patient Safety Rule, or when a PSO chooses to voluntarily

relinquish its status as a PSO for any reason. AHRQ has accepted a notification of voluntary relinquishment from Universal Safety Solution PSO of its status as a PSO, and has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on February 1, 2013.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site *http://www.pso.AHRQ.gov/index.html.*

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity is to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule (PDF file, 450 KB. PDF Help) relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found no longer to meet the requirements of the Patient Safety Act and Patient Safety Rule, or when a PSO chooses to voluntarily relinquish its status as a PSO for any reason. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from Universal Safety Solution PSO, PSO number P0104, a component entity of Universal Safety Solution, LLC, to voluntarily relinquish its status as a PSO. Accordingly, Universal Safety Solution PSO was delisted effective at 12:00 Midnight ET (2400) on February 1, 2013.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.AHRQ.gov/index.html.*

Dated: March 4, 2013.

Carolyn M. Clancy,

Director.

[FR Doc. 2013–06216 Filed 3–19–13; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[ATSDR–278]

Agency for Toxic Substances and Disease Registry Availability of Final Toxicological Profile

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the final Toxicological Profile for Uranium prepared by ATSDR.

FOR FURTHER INFORMATION CONTACT: Ms. Delores Grant, Division of Toxicology and Human Health Sciences, Agency for Toxic Substances and Disease Registry, Mailstop F–57, 1600 Clifton Road NE., Atlanta, Georgia 30333; telephone number (800) 232–4636 or (770) 488–3351. Electronic access to this document is available at the ATSDR Web site: *www.atsdr.cdc.gov/toxprofiles/index.asp.*

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9601 *et seq.*) amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) with regard to hazardous substances that are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the priority list of hazardous substances (also called the Substance Priority List). This list identifies 275 hazardous substances that ATSDR (in cooperation with EPA) has determined pose the most significant potential threat to human health. The availability of the revised list of the 275 priority substances was announced in the **Federal Register** on November 3rd, 2011 (76 FR 68193) and is available at *www.atsdr.cdc.gov/spl.* In addition, ATSDR has the authority to prepare toxicological profiles for substances not found at sites on the National Priorities List, in an effort to ''* * * establish and maintain inventory of literature, research, and studies on the health effects of toxic substances'' under CERCLA Section 104(i)(1)(B), to respond to requests for consultation under section 104(i)(4), and as otherwise necessary to support the site-specific response actions conducted by ATSDR.

Notice of the availability of this toxicological profile in draft form for public review and comment was published in the **Federal Register** on April 27, 2011 (76 FR 23600), with notice of a 90-day public comment period, starting from the actual release date. Following the close of the comment period, chemical-specific comments were addressed, and, where appropriate, changes were incorporated into the profile. The public comments and other data submitted in response to the **Federal Register** notices bear the docket control number CDC–2001–005. This material is available for public inspection at ATSDR.

Availability

This notice announces the availability of the Toxicological Profile for Uranium prepared by ATSDR. The Toxicological Profile for Uranium will be made available to the public on or about March 5, 2013 at the ATSDR Web site: *www.atsdr.cdc.gov/toxprofiles/index.asp.*

This final profile is also available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, telephone 1–800–553–6847 for a fee as determined by NTIS.

Dated: March 13, 2013.

Ken Rose,

Director, Office of Policy, Planning and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. 2013–06377 Filed 3–19–13; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: National Directory of New Hires.

OMB No.: 0970–0166.

Description: The National Directory of New Hires (NDNH), an automated directory maintained by the Federal

Office of Child Support Enforcement, was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. 42 U.S.C. 653(i)(1). In accordance with section 453A(g)(2) of the Social Security Act, employers are required to report information pertaining to newly hired employees to their state directory of new hires (SDNH) and, within three days of receiving employer information, states are required to transmit SDNH information to the NDNH. States are also required to transmit wage and unemployment compensation claims information to the NDNH on a quarterly basis. Federal agencies are required to report new hires and quarterly wage information directly to the NDNH.

The information maintained in the NDNH is collected electronically and assists states administering child support programs locate parents and enforce child support orders. Additionally, Congress authorized specific state and federal agencies to receive NDNH information for authorized purposes to assist in administering certain programs.

Respondents: Employers, State Child Support Enforcement Agencies, and State Workforce Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
New Hire: Employers Reporting Manually	[1] 5,294,970	[2] 1.98	.025 hours (1.5 minutes).	262,101.02
New Hire: Employers Reporting Electronically	[3] 635,162	[4] 76.40	.00028 hours (1 second) [5].	13,587.39
New Hire: States	54	[6] 193,947.41	.016667 hours (1 minute) [7].	174,556.16
Quarterly Wage & Unemployment Compensation	53	[8] 27	.00028 hours (2 minutes).	.40
Multistate Employers' Notification Form	4,632	1	.050 hours (3 minutes).	231.60
Total				450,477

[1] Eighty-nine percent of all employers report manually (based on SSA's experience).
[2] For the "Employers" tiers, "response" is defined as the number of new hire reports. Only 18 percent of all new hire reports are reported manually and 82 percent are reported electronically (based on OCSE's experience).
[3] Eleven percent of all employers report electronically (based on SSA's experience).
[4] "Response" is defined as the number of new hire reports. Eighty-two percent of new hire reports are reported electronically (based on OCSE's experience).
[5] Based on the assumption that employers reporting new hires electronically transmit their reports in a batch file, thus significantly reducing the per-response burden.
[6] Based on the average number of reports per transmission and the average burden per new hire report that are submitted manually. Reports submitted electronically are automated. The average number of reports per transmission is calculated by dividing 10,473,160 (total number of manual new hire reports) by 54 (total number of states).
[7] The average burden per new hire report is estimated to be one minute.
[8] "Response" is defined here as the number of transmissions to the NDNH. States are required to transmit quarterly wage and unemployment compensation data four times a year.

Estimated Total Annual Burden Hours: 450,477 hours.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov*.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*. Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–06326 Filed 3–19–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Chronic Disease Self-Management Education Program Standardized Data Collection

AGENCY: Administration on Aging (AoA), Administration for Community Living (ACL), HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA), now part of the Administration for Community Living, is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by April 19, 2013.

ADDRESSES: *OIRA_submission@omb.eop.gov* or by fax to 202.395.5806. Attn: OMB Desk Officer for ACL, Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Michele Boutaugh, 404–987–3411 or *Michele.boutaugh@acl.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the Administration on Aging (now part of the Administration for Community

Living) has submitted the following proposed collection of information to OMB for review and clearance.

The ''Empowering Older Adults and Adults with Disabilities through Chronic Disease Self-Management Education (CDSME) Programs'' cooperative agreement program is financed through 2012 Prevention and Public Health Funds. The proposed data collection is necessary for monitoring grant program operations and outcomes. AoA proposes to gather information to monitor grantee progress, record location of sites where workshops are held which will allow mapping of the delivery infrastructure, and document participant attendance and demographic and health characteristics. The proposed Participant Survey requests the participants' gender, zip code and birthdate to allow for potential Medicare claims matching and an analysis of changes in health care utilization post participation.

In response to the 60-day **Federal Register** notice related to this proposed data collection and published on July 23, 2013, four sets of comments were received. Concern was expressed about the collection of sensitive personal information. Most of the remaining comments provided suggestions for enhancing the quality and clarity of the information to be collected. The comments resulted in some revisions to the proposed data collection tools. The originally proposed data collection tools, the comments with responses and a revised set of data collection tools may be found on the AoA Web site at: *http://www.aoa.gov/AoARoot/AoA_Programs/Tools_Resources/collection_tools.aspx*.

ACL estimates the burden of this collection of information as 440 hours for State Governments, 1050 hours for local agency staff, and 2,500 hours for individuals—Total burden is 3,990 hours per year.

Dated: March 15, 2013.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2013–06390 Filed 3–19–13; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0242]

Agency Information Collection Activities: Proposed Collection; Comment Request; Current Good Manufacturing Practice for Positron Emission Tomography Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection contained in FDA's regulations on current good manufacturing practice (CGMP) for positron emission tomography (PET) drugs.

DATES: Submit either electronic or written comments on the collection of information by May 20, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane., Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–7726, *Ila.mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice for Positron Emission Tomography Drugs—(OMB Control Number 0910–0667)—Extension

Positron emission tomography is a medical imaging modality involving the use of a unique type of radiopharmaceutical drug product. FDA's CGMP regulations at 21 CFR part 212 are intended to ensure that PET drug products meet the requirements of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) regarding safety, identity, strength, quality, and purity. The CGMP requirements for PET drugs are issued under the provisions of the Food and Drug Administration Modernization Act (FDAMA). These CGMP requirements are designed to take into account the unique characteristics of PET drugs, including their short half-lives and the fact that most PET drugs are produced at locations that are very close to the patients to whom the drugs are administered.

The CGMP regulations are intended to ensure that approved PET drugs meet the requirements of the FD&C Act as to safety, identity, strength, quality, and purity. The regulations address the following matters: Personnel and resources; quality assurance; facilities and equipment; control of components, in-process materials, and finished products; production and process controls; laboratory controls; acceptance

criteria; labeling and packaging controls; distribution controls; complaint handling; and recordkeeping.

The CGMP regulations establish several recordkeeping requirements and a third-party disclosure requirement for the production of PET drugs. In making our estimates of the time spent in complying with these information collection requirements, we relied on communications we have had with PET producers, visits by our staff to PET facilities, and our familiarity with both PET and general pharmaceutical manufacturing practices. The estimated annual recordkeeping and third-party disclosure burden is based on there being approximately 129 PET drug production facilities. Table 1 provides an estimate of the annual recordkeeping burdens. Table 2 provides an estimate of the annual third-party disclosure burdens associated with this collection.

A. Investigational and Research PET Drugs

Section 212.5(b)(2) provides that for investigational PET drugs produced under an investigational new drug (IND) and research PET drugs produced with approval of a Radioactive Drug Research Committee (RDRC), the requirement under the FD&C Act to follow current good manufacturing practice is met by complying with the regulations in part 212 or with USP 32 Chapter 823. We believe that PET production facilities producing drugs under INDs and RDRCs are currently substantially complying with the recordkeeping requirements of USP 32 Chapter 823 (see section 121(b) of the FDAMA), and accordingly, we do not estimate any recordkeeping burden for this provision.

B. Batch Production and Control Records

Sections 212.20(c) through (e), 212.50(a) through (c), and 212.80(c) set forth requirements for batch and production records as well as written control records. We estimate that it would take approximately 20 hours annually for each PET production facility to prepare and maintain written production and control procedures and to create and maintain master batch records for each PET drug produced. We also estimate that there will be a total of approximately 221 PET drugs produced, with a total recordkeeping burden of approximately 4,420 hours. We estimate that it would take a PET production facility an average of 30 minutes to complete a batch record for each of approximately 501 batches. Our estimated burden for completing batch records is approximately 32,315 hours.

C. Equipment and Facilities Records

Sections 212.20(c), 212.30(b), 212.50(d), and 212.60(f) contain requirements for records dealing with equipment and physical facilities. We estimate that it would take approximately 1 hour to establish and maintain these records for each piece of equipment in each PET production facility. We estimate that the total burden for establishing procedures for these records would be approximately 1,935 hours. We estimate that recording maintenance and cleaning information would take approximately 5 minutes a day for each piece of equipment, with a total recordkeeping burden of approximately 40,237 hours.

D. Records of Components, Containers, and Closures

Sections 212.20(c) and 212.40(a), (b), and (e) contain requirements on records regarding receiving and testing of components, containers, and closures. We estimate that the annual burden for establishing these records would be approximately 259 hours. We estimate that each facility would receive approximately 36 shipments annually and would spend approximately 10 minutes per shipment entering records. The annual burden for maintaining these records would be approximately 771 hours.

E. Process Verification

Section 212.50(f)(2) requires that any process verification activities and results be recorded. Because process verification is only required when results of the production of an entire batch are not fully verified through finished-product testing, we believe that process verification will be a very rare occurrence, and we do not estimate any recordkeeping burden for documenting process verification.

F. Laboratory Testing Records

Sections 212.20(c), 212.60(a), (b), and (g), 212.61(a) through (b), and 212.70(a), (b), and (d) set out requirements for documenting laboratory testing and specifications referred to in laboratory testing, including final release testing and stability testing. Each PET drug production facility will need to establish procedures and create forms for the different tests for each product they produce. We estimate that it will take each facility an average of 1 hour to establish procedures and create forms for one test. The estimated annual burden for establishing procedures and creating forms for these records is approximately 3,225 hours, and the annual burden for recording laboratory test results is approximately 10,728 hours.

G. Sterility Test Failure Notices

Section 212.70(e) requires PET drug producers to notify all receiving facilities if a batch fails sterility tests. We believe that sterility test failures might occur in only 0.05 percent of the batches of PET drugs produced each year. Therefore, we have estimated in Table 2 that each PET drug producer will need to provide approximately 0.25 sterility test failure notice per year to receiving facilities. The notice would be provided using email or facsimile transmission and should take no more than 1 hour.

H. Conditional Final Releases

Section 212.70(f) requires PET drug producers to document any conditional final releases of a product. We believe that conditional final releases will be fairly uncommon, but for purposes of the PRA, we estimated that each PET production facility would have one conditional final release a year and would spend approximately 1 hour documenting the release and notifying receiving facilities. The estimate of one conditional final release per year per facility is an appropriate average number because many facilities may have no conditional final releases while others might have only a few.

I. Out-of-Specification Investigations

Sections 212.20(c) and 212.71(a) and (b) require PET drug producers to establish procedures for investigating products that do not conform to specifications and conduct these investigations as needed. We estimate that it will take approximately 1 hour annually to record and update these procedures for each PET production facility. We also estimate, for purposes of the PRA, that 36 out-of-specification investigations would be conducted at each facility each year and that it would take approximately 1 hour to document the investigation, which results in an annual burden of 4,644 hours.

J. Reprocessing Procedures

Sections 212.20(c) and 212.71(d) require PET drug producers to establish and document procedures for reprocessing PET drugs. We estimate that it will take approximately 1 hour a year to document these procedures for each PET production facility. We do not estimate a separate burden for recording the actual reprocessing, both because we believe it would be an uncommon event and because the recordkeeping burden has been included in our estimate for batch production and control records.

K. Distribution Records

Sections 212.20(c) and 212.90(a) require that written procedures regarding distribution of PET drug products be established and maintained. We estimate that it will take approximately 1 hour annually to establish and maintain records of these procedures for each PET production facility. Section 212.90(b) requires that distribution records be maintained. We estimate that it will take approximately 15 minutes to create an actual distribution record for each batch of PET drug products, with a total burden of approximately 16,157 hours for all PET producers.

L. Complaints

Sections 212.20(c) and 212.100 require that PET drug producers establish written procedures for dealing with complaints, as well as document how each complaint is handled. We estimate that establishing and maintaining written procedures for complaints will take approximately 1 hour annually for each PET production facility and that each facility will receive approximately one complaint a year and will spend approximately 30 minutes recording how the complaint was dealt with.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours
212.20(c) and (e); 212.50(a) and (b)	129	1.71	221	20	4,420
212.20(d) and (e); 212.50(c); 212.80(c)	129	501	64,629	.5 (30 min.)	32,315
212.20(c); 212.30(b); 212.50(d), 212.60(f)	129	15	1,935	1	1,935
212.30(b); 212.50(d); 212.60(f)	129	3,758	484,782	.08 (5 min.)	40,237
212.20(c); 212.40(a) and (b)	129	2	258	1	258
212.40(e)	129	36	4,644	.166 (10 min.)	771
212.20(c); 212.60(a) and (b); 212.61(a); 212.70(a), (b), and (d).	129	25	3,225	1	3,225
212.60(g); 212.61(b); 212.70(d)(2) and (d)(3)	129	501	64,629	.16 (10 min.)	10,728
212.70(f)	129	1	129	1	129
212.20(c); 212.71(a)	129	36	4,644	1	4,644
212.71(b)	129	1	129	1	129
212.20(c); 212.71(d)	129	1	129	1	129
212.20(c); 212.90(a)	129	1	129	1	129
212.90(b)	129	501	64,629	.25 (15 min.)	16,157
212.20(c); 212.100(a)	129	1	129	1	129
212.100(b) and (c)	129	1	129	.5 (30 min.)	65
Total					115,400

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR Section	Number of respondents	Annual frequency of disclosure	Total annual disclosures	Hours per disclosure	Total hours
212.70(e)	129	.25	32	1	32

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 14, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–06351 Filed 3–19–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1984.

HRSA especially requests comments on: (1) The necessity and utility of the

proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Request Title: HRSA AIDS Education and Training Centers Evaluation Activities: (OMB No. 0915–0281)—Revision

Abstract: The AIDS Education and Training Centers (AETC) Program, under the Ryan White HIV/AIDS Program established by Title XXVI of the Public Health Service (PHS) Act, as amended, supports a network of regional and national centers that conduct targeted, multi-disciplinary education and training programs for health care providers treating persons with HIV/AIDS. The AETCs' purpose is to increase the number of health care providers who are effectively educated and motivated to counsel, diagnose, treat, and medically manage individuals with HIV infection, and to help prevent high risk behaviors that lead to HIV transmission.

As part of an ongoing effort to evaluate AETC activities, information is needed on AETC training sessions, consultations, and technical assistance activities. Each regional center collects information on AETC training events, and is required to report aggregate data on their activities to HRSA's HIV/AIDS Bureau (HAB). The data provides information on the number of training events, including clinical trainings and consultations, as well as technical assistance activities conducted by each regional center, the number of health care providers receiving professional training or consultation, and the time and effort expended on different levels of training and consultation activities. In addition, information is obtained on the populations served by AETC trainees, and the increase in capacity achieved through training events. Collection of this information allows HRSA's HAB to provide information on training activities and types of education and training provided to Ryan White HIV/AIDS Program Grantees, resource allocation, and capacity expansion. Trainees are asked to complete the Participant Information Form (PIF) for each activity they complete, and trainers are asked to complete the Event Record (ER).

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

The annual estimate of burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
PIF	116,624	1	116,624	0.167	19,476.2
ER	18,070	1	18,070	0.2	3,614.0
Total	134,694		134,694		23,090.2

The estimated annual burden to AETCs is as follows:

	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Aggregate Data Set	16	2	32	32	1024.0

The total burden hours are 24,114.2.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail to the HRSA Reports Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Deadline: Comments on this Information Collection Request must be received within 60 days of this notice.

Dated: March 12, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–06382 Filed 3–19–13; 8:45 am]

BILLING CODE 4165–15–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, ''Limited Competition: Collaborative Partnership to Advance Global Biomedical Research Programs (U01).''

Date: April 12, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Andrea L Wurster, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room

3259, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–761, 301–451–2660, *wurstera@mail.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: March 13, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–06338 Filed 3–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Assessment of Adverse Genetic Effects From Exposure to Compounds.

Date: April 18, 2013.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752, *mcgee1@niehs.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: March 14, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–06337 Filed 3–19–13; 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, Member Conflict: AIDS and AIDS Related Research.

Date: April 9–10, 2013.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Biopsychosocial Issues in Patient Management.

Date: April 10, 2013.

Time: 1:00 p.m. to 2:30 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: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cancer Prevention and Treatment.

Date: April 15, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–435–1719, *ngkl@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: March 14, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–06339 Filed 3–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0014]

Homeland Security Science and Technology Advisory Committee Meeting Cancellation

AGENCY: Science and Technology Directorate, DHS.

ACTION: Notice of Cancellation of the Federal Advisory Committee Meeting for Homeland Security Science and Technology Advisory Committee (HSSTAC).

SUMMARY: The meeting of the Homeland Security Science and Technology Advisory Committee scheduled for March 21, 2013 from 11:30 a.m.–4:30 p.m. is cancelled. Notice of this meeting was published in the March 4, 2013 **Federal Register** at DHS–2013–0014.

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: This committee is established in accordance with and operates under the provisions of the Federal Advisory Committee Act (FACA), Title 5 United States Code, Appendix. It reports to the Under Secretary for Science and Technology. The committee addresses areas of interest and importance to the Under Secretary, 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. Notice of cancellation of this meeting is given under the Federal Advisory Committee Act (FACA), Pub. L. 92–463, as amended, 5 U.S.C. App.

Dated: March 13, 2013.

Mary Hanson,

Executive Director, Homeland Security Science and Technology Advisory Committee.

[FR Doc. 2013–06341 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–9F–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; Correction

AGENCY: Science and Technology Directorate, Department of Homeland Security.

ACTION: Request for Information and Notice of Workshop; Correction.

SUMMARY: The Department of Homeland Security (DHS) published a document in the **Federal Register** of March 4, 2013, requesting information regarding utilization alternatives for the planned Biotechnology Development Module (BDM) a planned component of the National Bio and Agro-Defense Facility (NBAF) and announcing a workshop for all interested parties. Due to sequestration, the workshop is postponed until further notice.

FOR FURTHER INFORMATION CONTACT: Mary Goobic, 202–254–6144.

Corrections

In the **Federal Register** of March 4, 2013, in FR Doc. 2013–04919, on page 14103, in the third column, correct the **DATES** caption to read:

DATES: The Request for Information period will be 60 days (March 4 to May 2, 2013). Please submit written information no later than May 2, 2013.

Due to sequestration, the BDM public workshop originally scheduled for March 22, 2013 will be postponed until further notice. Notice regarding rescheduling this workshop will be issued once the government receives authorization to proceed.

In the **Federal Register** of March 4, 2013, in FR Doc. 2013–04919, on page 14103, in the third column, correct the **ADDRESSES** caption to read:

ADDRESSES: Written Information should be submitted via email to: *nbafprogrammanager@dhs.gov* ATTN: Mary Goobic.

Once the government receives authorization to proceed, information regarding a new date for the workshop will be posted at *www.dhs.gov/nbaf.*

In the **Federal Register** of March 4, 2013, in FR Doc. 2013–04919, on page 14104, in the first column, correct the ''Workshop'' section under the **SUPPLEMENTARY INFORMATION** caption to read:

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.

Due to sequestration, the BDM public workshop originally scheduled for March 22, 2013 will be postponed until further notice. DHS and USDA will continue to welcome and accept the written responses and ideas on how best to utilize the BDM during the period of the RFI. Notice regarding rescheduling this workshop will be issued on the NBAF Web site (*www.dhs.gov/nbaf*) once the government receives authorization to proceed. Questions regarding the workshop may be submitted by email to *nbafprogrammanager@dhs.gov* ATTN: Mary Goobic.

Dated: March 11, 2013.

Daniel M. Gerstein,

Deputy Under Secretary, Science and Technology Directorate, U.S. Department of Homeland Security.

[FR Doc. 2013–06311 Filed 3–19–13; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0052]

Agency Information Collection Activities: Application for Naturalization, Form N–400; Revision of a Currently Approved Collection

ACTION: 30-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on December 20, 2012, at 77 FR 75440, allowing for a 60-day public comment period. USCIS did receive multiple comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 19, 2013. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* The comments submitted to the OMB USCIS Desk Officer may also be submitted to DHS via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0025 or via email at *uscisfrcomment@uscis.dhs.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0052.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information

please read the Privacy Act notice that is available via the link in the footer of www.regulations.gov.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

USCIS continually reviews its information collection tools for accuracy, completeness, and utility and, as a result, the agency is proposing the addition of a number of questions to Form N–400. These additional questions will allow USCIS to make more informed decisions on the eligibility of respondents to the form. Form N–400 is the final information collection activity that occurs before an eligibility determination for naturalization is made. Even if the applicant for naturalization has received a previous immigration benefit from USCIS, the length of time that may have transpired between the initial interaction that the respondent had with USCIS on another immigration benefit request and the filing of the N–400 requires USCIS to verify that actions taken by the respondent during the intervening years do not affect his or her eligibility for naturalization. The form is also updated to examine the inadmissibility grounds that were added by the Intelligence Reform and Terrorism Prevention Act of 2004. Pub. L. 108–458 (Dec. 17, 2004). USCIS added these questions as required by the agreement reached through a working group comprised of representatives of affected agencies, including the Department of Justice and Department of State, and U.S. Immigration and Customs Enforcement of DHS. These additional questions are necessary for USCIS to meet the statutory requirements and the President's directive to make a determination that a person is ineligible to naturalize because of his or her past involvement with terrorism, persecution, torture, or genocide. *See,* Presidential Proclamation—Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Participate in Serious Human Rights and Humanitarian Law Violations and Other Abuses, at *http://www.whitehouse.gov/the-press-office/2011/08/04/presidential-proclamation-suspension-entry-immigrants-and-nonimmigrants-.* Because Form N–400 has changed significantly, the burden estimate in this notice is not based on the experience and observations of actual public usage. USCIS would appreciate and encourages the public's input on the burden estimate so as to provide the most accurate estimate possible.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–400; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information gathered on Form N–400 to make a determination as to a respondent's eligibility to naturalize and become a United States citizen.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 764,450 respondents with an estimated response per respondent of 6 hours and 55 minutes for the form N–400 and 1 hour and 17 minutes for the biometric processing.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,182,108 Hours. This is a change from the estimated burden per response reported on the 60-day **Federal Register** Notice published at 77 FR 75440.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: March 15, 2013.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2013–06435 Filed 3–19–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0027]

Agency Information Collection Activities: Interagency Record of Request A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G, or NATO Status, Form I–566; Revision of a Currently Approved Collection; Extension

ACTION: 30-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on December 18, 2012, at 77 FR 74861, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 19, 2013. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* The comments submitted to the OMB USCIS Desk Officer may also be submitted to

DHS via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0041 or via email at *uscisfrcomment@uscis.dhs.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0027.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of www.regulations.gov.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection; Extension.

(2) *Title of the Form/Collection:* Interagency Record of Request A, G, or NATO Dependent Employment Authorization or Change/Adjustment To/From A, G, or NATO Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–566; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information collection facilitates processing of applications for benefits filed by dependents of diplomats, international organizations, and NATO personnel by U.S. Citizenship and Immigration Services, and the Department of State.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,800 with an estimated hour burden per response of 1.42 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,236 Hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: March 15, 2013.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2013–06424 Filed 3–19–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5689–N–02]

Notice of Proposed Information Collection, License for the Use of Personally Identifiable Information Protected Under the E-Government Act of 2002, Title V and the Privacy Act of 1974

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 20, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street SW., Room 8230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Mark Shroder, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street SW., Room 8124, Washington, DC 20410; telephone (202) 402–5922, (this is not a toll free number). Copies of the proposed data collection instruments and other available documents may be obtained from Dr. Shroder.

SUPPLEMENTARY INFORMATION: HUD will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including if the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of 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: License for the Use of Personally Identifiable Information Protected Under the E-Government Act of 2002, Title V and the Privacy Act of 1974.

Description of the need for information and proposed use: HUD has collected and maintains personally identifiable information, the confidentiality of which is protected by the Privacy Act of 1974 (5 U.S.C 522A) and Title V, subtitle A of the E-Government Act of 2002 (CIPSEA) (U.S.C. 3501 note). HUD wishes to make the data available for statistical, research, or evaluation purposes for qualified organizations capable of research and analysis consistent with

the statistical, research, or evaluation purposes for which the data were provided or are maintained, but only if the data are used and protected in accordance with the terms and conditions stated in this license (License). Upon receipt of such assurance of qualification and capability, it is hereby agreed between HUD and (Name of the organization to be licensed) that the license be granted.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Instrument	Number of respondents	Number responses per respondent	Average burden/ response (in hours)	Total burden hours
License Application	12	1	1	12
Total				12

Status of the proposed information collection: Pending OMB approval.

Authority: Title 13 U.S.C. Section 9(a), and Title 12, U.S.C., Section 1701z–1 *et seq.*

Dated: March 13, 2013.

Jean Lin Pao,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2013–06403 Filed 3–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–11]

Notice of Proposed Information Collection; Comment Request: Multifamily Housing—Utility Allowance Adjustments for Rental Assistance

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 20, 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 should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., L'Enfant Plaza Building, Room 9120, Washington, DC 20410 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Eric Ramsey, Director, Business Relationships and Special Initiatives Division, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3944 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: HUD is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Utility Allowance Adjustments for Rental Assistance.

OMB Control Number, if applicable: 2502–0352.

Description of the need for the information and proposed use: Multifamily project owners are required to advise the Secretary of the need for and request approval of a new utility allowance for tenants.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 2,406. The number of respondents is 4,811, the frequency of response is on occasion, and the burden hour per response is 0.5 hours.

Status of the proposed information collection: This is an extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 14, 2013.

Laura M. Marin,

Acting General Assistant Secretary for Housing, Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–06425 Filed 3–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–25]

Notice of Submission of Proposed Information Collection to OMB: Annual Progress Report (APR) for Competitive Homeless Assistance Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

This information will enable HUD to assess the performance of individual projects and to determine project compliance with funding requirements. This information assists HUD in understanding homeless clients and service needs at the local level. HUD also uses this information to provide information on overall program performance and outcomes to HUD staff, other federal agencies, the Congress, and the Office of Management and Budget. Agency Form Numbers: HUD–40118. Members of the affected public: Grant recipients for the Supportive Housing Program (SHP), Shelter Plus Care (S+C) Program, and the Section 8 Moderate

Rehabilitation for the Single Room Occupancy Dwellings (SRO) Program.

DATES: *Comments Due Date:* April 19, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0145) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov;* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the HUD has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Annual Progress Report (APR) for Competitive Homeless Assistance Programs.

OMB Approval Number: 2506–0145.

Form Numbers: HUD–40118.

Description of the need for the information and proposed use: This information will enable HUD to assess the performance of individual projects and to determine project compliance with funding requirements. This information assists HUD in understanding homeless clients and service needs at the local level. HUD also uses this information to provide information on overall program performance and outcomes to HUD staff, other federal agencies, the Congress, and the Office of Management and Budget. Agency Form Numbers: HUD–40118. Members of the affected public: Grant recipients for the Supportive Housing Program (SHP), Shelter Plus Care (S+C) Program, and the Section 8 Moderate Rehabilitation for the Single Room Occupancy Dwellings (SRO) Program.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden	3,675	1.346		22.505	111,400

Total Estimated Burden Hours: 111,400.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 15, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–06430 Filed 3–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2013–N057; FXES11120100000–134–FF01E00000]

Environmental Impact Statement; Proposed South Puget Sound Prairie Habitat Conservation Plan, Thurston County, WA

AGENCY: Fish and Wildlife Service (Service), Interior.

ACTION: Notice of intent; announcement of meeting; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), advise interested parties of our intent to conduct public scoping under the National Environmental Policy Act (NEPA) to gather information to prepare a draft Environmental Impact Statement (EIS) related to a permit application from Thurston County, Washington, for the incidental take of listed species. The permit application would be associated the South Puget Sound Prairie Habitat Conservation Plan (Prairie HCP), Thurston County, WA.

DATES: A public meeting will be held on April 6, 2013, from 9:30 a.m. to 3 p.m. at the Exposition Hall, Thurston County Fairgrounds, 3054 Carpenter Road, Lacey, WA 98503. To ensure consideration of written comments, please send your written comments on or before May 20, 2013.

ADDRESSES: Comments concerning the development of Thurston County's Prairie HCP and the preparation of the associated EIS should be identified as such and may be submitted by one of the following methods:

- *U.S. mail:* Tim Romanski, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503–1263.
- *Email: WFWOComments@fws.gov.* Include ''Thurston County Prairie HCP—EIS'' in the subject line of the message.
- *Facsimile:* (360) 753–9518.
- *In-Person:* Written comments will be accepted at the public meeting on April 6, 2013, or can be dropped off during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Tim Romanski, U.S. Fish and Wildlife Service at address under **ADDRESSES**, above; by email at *Tim_Romanski@fws.gov*; or by telephone at (360) 753–5823.

SUPPLEMENTARY INFORMATION:

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meeting should contact Tim Romanski (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call no later than March 31, 2013. Information regarding the applicant's proposed action is available in alternative formats upon request.

Background

Section 9 of the Endangered Species Act (Act) (16 U.S.C. 1531 et seq.) and our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as ''to

harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532). The term ''harass'' is defined in the regulations as ''an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering'' (50 CFR 17.3). The term ''harm'' is defined in the regulations as ''an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering'' (50 CFR 17.3).

Under limited circumstances, we issue permits to authorize incidental take—i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. In addition to meeting other criteria, an incidental take permit must not jeopardize the continued existence of federally listed threatened or endangered species.

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. Under NEPA, a reasonable range of alternatives to a proposed project is developed and considered in the Service's environmental review. Alternatives considered for analysis in an EIS for an HCP may include: variations in the scope of covered activities; variations in the location, amount, and type of conservation; variations in permit duration; or a combination of these elements.

Introduction

South Puget Sound prairies and oak woodlands are among the rarest habitats in Washington. Today, only about 10 percent of the spatial extent of the original South Puget Sound Prairies remains. Less than 3 percent of that is considered high-quality prairie habitat. The decline in the quantity and quality of prairie habitat in western Washington has resulted in imperiled populations of many prairie-dependent species. Land development and other incompatible uses are the primary threats to prairies and their associated species.

Thurston County is located at the southern end of Puget Sound and has a total population of approximately 257,000 people. As one of the fastest growing regions in the State of Washington, Thurston County's population grew by approximately 50,000 (24 percent) between the year 2000 and the year 2012, and is expected to grow by over 138,000 by the year 2040. A sizable portion of South Puget Sound Prairie habitat is located in the urban-rural interface and in the less densely populated southern portion of the county. Based on current zoning and land use regulations, future development in the county is likely to occur on lands with prairie soils and habitat suitable for rare prairie species protection or restoration.

Washington State's Growth Management Act requires counties to protect several types of ''critical areas,'' including important fish and wildlife habitats such as prairies and oak woodlands. Thurston County recently updated and approved its Critical Areas Ordinance for the protection of South Puget Sound prairies and oak woodlands. If the South Puget Sound Prairie HCP is approved, this ordinance will be an important basis for implementing the HCP.

The Prairie HCP goals are to avoid and minimize incidental take of the covered species associated with Thurston County's activities in the county and urban growth areas, and to mitigate the effects of unavoidable take, primarily by creating conserved habitat areas in Thurston County where intact prairie habitat exists. The Prairie HCP would provide a county-wide permitting approach for Thurston County and those who require permits from Thurston County to develop lands in the county and urban growth areas. The proposed term for the Prairie HCP and permit is from 30 to 50 years.

Covered Activities

Thurston County is seeking incidental take coverage for activities that it conducts, permits, or otherwise authorizes. The proposed covered activities may include, but are not limited to: planning and permitting of residential and agricultural structures and facilities on existing legal lots; permits for private and new subdivision road construction and maintenance; permits for work in right-of-ways; construction and maintenance of county roads, bridges, and right-of-ways; construction and maintenance of county-owned buildings and other administrative facilities; construction and maintenance of county parks and historical cemeteries including roads, trails, vegetation management, structures, recreational activities, scientific research; construction and operation of solid waste facilities; permitting and monitoring of wells, septic systems, and decommissioning of home oil tanks; maintenance and monitoring of water resources and associated facilities; construction, installation, extension, and maintenance of surface-water intake facilities, pumping plants, well houses, water treatment facilities, and water supply pipelines; emergency response, cleanup, and restoration associated with natural disasters; habitat restoration activities on county-owned or controlled land, the Voluntary Stewardship Program for agricultural activities in habitat areas, and all habitat enhancement activities associated with implementation of the HCP.

Covered Species

Thurston County is proposing to seek incidental take coverage for two federally listed species, three species proposed to be federally listed, one candidate species, and 12 non-listed species. These species are described in more detail in the following paragraphs.

Golden paintbrush (*Castilleja levisecta*) is a native forb that was once found on northwest prairie grasslands from British Columbia to the Willamette Valley of Oregon. Golden paintbrush was federally listed as threatened under the Endangered Species Act on June 11, 1997 (62 FR 31740). This flowering plant is known to exist in only 11 locations, including one population found on a South Puget Sound Prairie in Thurston County.

Water howellia (*Howellia aquatilis*) is a winter annual aquatic plant that grows in areas that were once associated with glacial potholes and former river oxbows that flood in the spring. Water howellia (*Howellia aquatilis*) was federally listed as threatened on July 14, 1993 (59 FR 35860). This flowering plant is currently known from California, Idaho, Montana, and Washington, and was historically found in Oregon.

Taylor's checkerspot (*Euphydryas editha taylori*) is a native butterfly that was once widespread throughout prairies in association with golden paintbrush. Taylor's checkerspot was proposed to be federally listed as an endangered species and designation of critical habitat was proposed on October 11, 2012 (77 FR 61937). This species is already classified as endangered by the State of Washington. In south Puget Sound, this species is found at only two locations: one where the butterfly naturally occurs, and the other where it has been reintroduced. Both locations lie within the south Puget Sound prairie

landscape. Reintroductions of this species are being undertaken on lands already conserved.

Streaked horned lark (*Eremophila alpestris strigata*) is a native bird found in prairies, grasslands, and other sparsely vegetated areas. This species was proposed to be federally listed as a threatened species and designation of critical habitat was proposed on October 11, 2012 (77 FR 61937). Once distributed from British Columbia to southern Oregon, its range has retracted considerably. Within Thurston County this species is found at only few locations. The northernmost known population occurs on Joint Base Lewis-McChord.

The Mazama pocket gopher (*Thomomys mazama*), a native mammal of Thurston County, occurs on prairie habitat and prairie soils. In the south Puget Sound area, two of nine subpopulations of Mazama pocket gopher have become extinct since the 1940s. Four subspecies of the gopher were proposed to be federally listed as threatened and designation of critical habitat was proposed on December 11, 2012 (77 FR 77370).

The county also proposes to cover the Oregon spotted frog (*Rana pretiosa*), which was designated a candidate species on September 19, 1997 (62 FR 49402), and the following non-listed species: western gray squirrel (*Sciurus griseus*), Oregon vesper sparrow (*Pooecetes graminesu*), slender-billed white-breasted nuthatch (*Sitta carolinensis aculeate*), western pond turtle (*Clemmys marmorata affinus*), western toad (*Bufo boreas*), mardon skipper (*Polites mardon*), Puget blue butterfly (*Icaricia icarioides blackmorei*), valley silverspot butterfly (*Speyeria zerene*), white-top aster (*Aster curtus*), rose checker mallow (*Sidalcea malviflora virgata*), small-flowered trillium (*Trillium parviflorum*), and Puget balsamroot (*Balsamorhiza deltoidea*).

Public Scoping

The primary purpose of the scoping process is for the public to assist the Service and Thurston County in developing a draft EIS by identifying important issues and alternatives related to the applicant's proposed action. The scoping meeting will include presentations by the Service and Thurston County, followed by informal questions and discussions. Written comments from all interested parties are welcome to ensure that a full range of issues and alternatives related to the proposed permit request is identified.

The Service requests that comments be specific. In particular, we request information regarding management issues and goals to be considered in the development of the HCP; existing environmental conditions in Thurston County; other plans or projects that might be relevant to this proposed project; permit duration; areas and specific landforms that should or should not be covered; species that should or should not be covered; covered activities, including potential avoidance, minimization, and mitigation measures; monitoring and adaptive management provisions; and funding suggestions.

We will accept written comments at the public meeting. You may also submit written comments to the Service at our U.S. mail address, by email, or by facsimile (see **ADDRESSES** section above). Once the draft EIS and draft HCP are prepared, there will be further opportunity for public comment on the content of these documents through an additional 90-day public comment period.

Public Availability of Comments

Comments and materials we receive, as well as supporting documentation we use in preparing the EIS under NEPA, will become part of the public record and will be available for public inspection by appointment, during regular business hours, at the Service's Washington Fish and Wildlife Office (see **ADDRESSESS**). Before including your address, phone number, email address, or other personal identifying information in your comment(s), you should be aware that your entire comment(s)—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment(s) to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969, as amended (42 U.S.C. 4321 et seq.), Council on Environmental Quality Regulations (40 CFR parts 1500–1508), other applicable Federal laws and regulations, and applicable policies and procedures of the Service. This notice is being furnished in accordance with 40 CFR 1501.7 of the NEPA regulations to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS.

Dated: March 5, 2013.

Richard R. Hannan,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2013–06374 Filed 3–19–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2013–N062; FXFR1334088TWG0W4–123–FF08EACT00]

Trinity Adaptive Management Working Group; Public Meeting, Teleconference and Web-Based Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting, teleconference and web-based meeting of the Trinity Adaptive Management Working Group (TAMWG).

DATES: *Public meeting, Teleconference, and web-based meeting:* Monday April 1, 2013, from 9:30 a.m. to 4 p.m. Pacific time. *Deadlines:* For deadlines and directions on registering to listen to the meeting by phone, listening and viewing on the Internet, submitting written material, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: You may participate in person or by teleconference or web-based meeting from your home computer or phone.

FOR FURTHER INFORMATION CONTACT: Elizabeth W. Hadley, Redding Electric Utility, 777 Cypress Avenue, Redding, CA 96001; telephone: 530–339–7327; email: *ehadley@reupower.com.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Trinity Adaptive Management Working Group (TAMWG) will hold a teleconference/web-based meeting.

Background

The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

Meeting Agenda

- Designated Federal Officer (DFO) updates,

- TMC Chair report,
- Executive Director's report,
- 2013 design update,
- Scientific Advisory Board phase 1 review,
- Gravel update, and
- Flow and scheduling update.

The final agenda will be posted on the Internet at *http://www.fws.gov/arcata*.

PUBLIC INPUT

If you wish to	You must contact Elizabeth Hadley (**FOR FURTHER INFORMATION CONTACT**) no later than
Listen to the teleconference/web-based meeting via telephone or Internet	March 25, 2013.
Submit written information or questions for the TAMWG to consider during the teleconference	March 25, 2013.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the TAMWG to consider during the meeting. Written statements must be received by the date listed in ''Public Input,'' so that the information may be available to the TAMWG for their consideration prior to this teleconference. Written statements must be supplied to Elizabeth Hadley in one of the following formats: One hard copy with original signature, and one electronic copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, PowerPoint, or rich text file).

Registered speakers who wish to expand on their oral statements, or those who wished to speak but could not be accommodated on the agenda, may submit written statements to Elizabeth Hadley up to 7 days after the teleconference.

Meeting Minutes

Summary minutes of the teleconference will be maintained by Elizabeth Hadley (see **FOR FURTHER INFORMATION CONTACT**). The minutes will be available for public inspection within 90 days after the meeting, and will be posted on the TAMWG Web site at *http://www.fws.gov/arcata*.

Dated: March 3, 2013.

Joseph C. Polos,

Supervisory, Fish Biologist Arcata Fish and Wildlife Office, Arcata, California.

[FR Doc. 2013–06378 Filed 3–19–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD10000.L14300000.EU0000; WYW–161972; WYW–176935]

Notice of Intent To Amend the Snake River Resource Management Plan for the Pinedale Field Office and Prepare an Associated Environmental Assessment; and Notice of Realty Action: Classification and Direct Sale of Public Land in Teton County, WY

AGENCY: Bureau of Land Management, Interior.

ACTIONS: Notice of Intent and Notice of Realty Action.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Pinedale Field Office, Pinedale, Wyoming, intends to prepare a Resource Management Plan (RMP) amendment with an associated environmental assessment (EA) for the Snake River RMP and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues. Three parcels of public land in Teton County, Wyoming, are being classified as suitable for disposal under the provisions of Section 203 of FLPMA and are being proposed for direct sale at no less than the appraised fair market value.

DATES: This notice initiates the public scoping process for the RMP amendment with the associated EA and segregates the three parcels from operation of the public land laws as described below. Comments regarding the proposed amendment, classification, or sale must be received by the BLM at the address below no later than May 6, 2013. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media and newspapers. In order to be included in the analysis, all comments must be received prior to the close of the 45-day scoping period or 30 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the plan amendment and realty action by any of the following methods:

- *Mail:* Field Manager, Pinedale Field Office, P.O. Box 768, 1625 West Pine Street, Pinedale, WY 82941.
- *Email: WYMail@blm.gov* with ''Snake River Amendment'' in the subject line. Documents pertinent to this proposal may be examined at the Pinedale Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Tracy Hoover, Realty Specialist, BLM Pinedale Field Office, 1625 West Pine Street, Pinedale, WY 82941; telephone 307–367–5342; email *thoover@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Wyoming Pinedale Field Office intends to prepare an RMP amendment with an associated EA for the Snake River RMP, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The three parcels are located in Teton County, Wyoming, and encompass approximately 2.01 acres of public land. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the plan

amendment area have been identified by BLM personnel; Federal, state and local agencies; and other stakeholders. The issues include: revision of disposal language to include private individuals as well as governmental entities.

The BLM is proposing to amend the April 5, 2004 Snake River RMP to identify and allow for the direct sale of three surveyed parcels of public land totaling 2.01 acres located in Teton County, Wyoming, near Jackson. The three parcels that comprise the subject of the plan amendment and are described as:

Sixth Principal Meridian

T. 40 N., R. 116 W., (Parcel 1, 0.13 acres) sec. 34, lot 14.
T. 40 N., R. 117 W., (Parcel 2, 0.82 acres) sec. 25, lot 14.
T. 41 N., R 117 W., (Parcel 3, 1.06 acres) Tract 46B.

Under Section 203 of the FLPMA, as amended (43 U.S.C. 1713), if the BLM determines that the three parcels of public land are suitable for disposal, then the BLM may propose to offer them for direct sale at the appraised fair market value.

To resolve unintentional unauthorized uses, including residences and agricultural buildings, Parcel 1 is proposed for direct sale to adjacent landowner Sewell Partners and 2 is proposed for direct sale to adjacent landowner Evans Land & Cattle Company. These parcels are the minimum size possible to ensure that all the improvements are included, but also to ensure that the parcels cannot be resold or used as building sites unto themselves. The appraised fair market value for Parcel 1 is $4,200 and Parcel 2 is $3,500. Parcel 3 is proposed for direct sale to TSR Limited because its inaccessible location makes it difficult and uneconomical for the BLM to manage and it is not suitable for management by another agency. An appraisal will be completed on Parcel 3 at a later date.

A direct sale to resolve unintentional trespass is consistent with the objectives, goals and decision of the BLM Snake River RMP. A direct sale to dispose of a tract of land that is difficult and uneconomical for the BLM to manage, and is not suitable for management by another government agency, is also consistent with the objectives, goals and decision of the BLM Snake River RMP.

In accordance with 43 CFR 2710.0–6(c)(3)(iii) and 43 CFR 2711.3–3(a), direct sale procedures are appropriate to resolve an inadvertent, unauthorized occupancy of the land or to protect existing equities in the land. The sales, when completed, would protect the improvements involved and resolve the inadvertent encroachment on two parcels and eliminate a difficult management situation on another. The three parcels of land are not required for other Federal purposes and do not contain other known public values. Conveyance of the identified public lands will be subject to valid existing rights and encumbrances of record, including, but not limited to, rights-of-way for roads and public utilities. The patent will include an appropriate indemnification claim protecting the United States from claims arising out of the patentee's use occupancy or occupations on the patented lands. No warranty of any kind, express or implied, is given by the United States as to the title, physical condition, or potential uses of the parcels of land proposed for sale. The BLM will retain all mineral rights.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the FLPMA and leasing under the mineral leasing laws. Until completion of the sale, the BLM will no longer accept land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants, in accordance with 43 CFR 2807.15 and 2886.15. This segregative effect will end upon issuance of the patent, publication in the **Federal Register** of a termination of the segregation, or March 20, 2015, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

The following reservations, rights, and conditions would be included in the patent that may be issued for the above parcels of public land:

1. A reservation of all minerals to the United States;
2. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945); and
3. All valid existing rights of record, including those documented on the official public land records at the time of patent issuance.

Detailed information concerning these actions is available for review at the address above during normal business hours, 7:45 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

You may submit comments on issues and planning criteria regarding the RMP amendment process, as well as written comments concerning the lands being considered for sale, including notification of any encumbrances or other claims relating to the identified lands in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the close of the 45-day scoping period or within 30 days after the last public meeting, whichever is later.

The BLM will use the NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, state, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. The BLM will evaluate identified issues to be addressed in the plan and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;
2. Issues to be resolved through policy or administrative action; or
3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the Draft RMP Amendment/Draft EA as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best

suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Rangeland management, minerals and geology, forestry, outdoor recreation, archaeology, paleontology, wildlife and fisheries, lands and realty, hydrology, soils, sociology, and economics.

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. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1–2(a), 40 CFR 1501.7 and 43 CFR 1610.2

Dated: January 10, 2013.

Donald A. Simpson,

State Director, Wyoming.

[FR Doc. 2013–06331 Filed 3–19–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000 L102000000.ML0000 13XL1109AF.HAG13–0139]

Notice of Public Meeting, Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting cancellation.

SUMMARY: The Bureau of Land Management (BLM) published a document in the **Federal Register** of February 28, 2013, regarding a meeting of the Eastern Washington Resource Advisory Council. The meeting on March 21, 2013, has been cancelled because of budget constraints due to the sequester.

DATES: March 21, 2013

SUPPLEMENTARY INFORMATION: The cancelled meeting was scheduled for Thursday March 21, 2013, at the City Council Chambers of the City of Moses Lake, 401 S. Balsam, Moses Lake, Washington 98837.

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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.

FOR FURTHER INFORMATION CONTACT: BLM Spokane District, 1103 N. Fancher Rd., Spokane Valley, Washington, 99212, or call (509) 536–1200. 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.

Daniel C. Picard,

Spokane District Manager.

[FR Doc. 2013–06376 Filed 3–19–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Amendment Under the Clean Air Act; the Clean Water Act; the Resource Conservation and Recovery Act; the Missouri Air Conservation Law; the Missouri Clean Water Law and the Missouri Hazardous Waste Management Law

On March 14, 2013, the Department of Justice and the State of Missouri lodged with the United States District Court for the Eastern District of Missouri a consent decree in the lawsuit entitled *United States* v. *Teva Pharmaceuticals USA, Inc.* 2:13–cv–00027–HEA.

The lawsuit is a civil action brought pursuant to the Clean Air Act, the Missouri Air Conservation Law, the Clean Water Act, the Missouri Clean Water Law, the Resource Conservation and Recovery Act, and the Missouri Hazardous Waste Management Law. The complaint seeks civil penalties and injunctive relief against Teva Pharmaceuticals USA, Inc., for violations of the requirements applicable to hazardous air pollutants and hazardous waste, and of requirements applicable to Teva's discharge of pollutants to a city-owned wastewater treatment plant. The violations occurred at a chemical manufacturing facility located in Mexico, Missouri.

The consent decree requires Teva to pay a civil penalty of $2,250,000 and to implement a series of projects and changes at its Mexico Facility to bring the facility into compliance and mitigate its past violations. Among other things, Teva will be required to develop a pretreatment plan; conduct vacuum stripping of wastewater streams to remove methylene chloride; install an automated diffused aeration rate system in its wastewater treatment plant; implement an enhanced leak detection program; and establish an Environmental Management System that calls for environmental audits of its facility.

This publication opens a period for public comment on the Consent Decree. You may submit comments to the Assistant Attorney General, Environment and Natural Resources Division. The comments should refer to *United States* v. *Teva Pharmaceuticals USA, Inc.,* D.J. Ref. No. 90–5–2–1–09638. Comments must be submitted no later than thirty (30) days after the publication date of this notice. Forward comments either by email or U.S. mail:

To submit comments:	Send them to:
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By U.S. mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, Consent Decree 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 Decree 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 $20.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert M. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–06360 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances, Notice of Application, Noramco Inc.

Pursuant to Title 21 Code of Federal Regulations 1301.34(a), this is notice that on July 22, 2011, Noramco Inc., 1440 Olympic Drive, Athens, Georgia 30601, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedule II:

Drug	Schedule
Phenylacetone (8501)	II
Thebaine (9333)	II
Noroxymorphone (9668)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import Thebaine (9333) analytical reference standards for distribution to its customers. The company plans to import an intermediate form of Tapentadol (9780) to bulk manufacture Tapentadol for distribution to its customers. The company plans to import Phenylacetone (8501) and Poppy Straw Concentrate (9670) to manufacture other controlled substances.

Comments and request for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (2007).

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule II, which fall under the authority of section 1002(a)(2)(B) of the Act 21 U.S.C. 952(a)(2)(B) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than April 19, 2013.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR § 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic class of any controlled substance in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: March 12, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–06330 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances, Notice of Application, United States Pharmacopeial Convention

Pursuant to Title 21 Code of Federal Regulations 1301.34(a), this is notice that on January 21, 2013, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Norlevorphanol (9634)	I
Levomethorphan (9210)	II
Difenoxin (9168)	II

The company plans to import the listed controlled substances in bulk powder form from foreign sources for the manufacture of analytical reference standards for sale to their customers.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedules I and II, which falls under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR § 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than April 19, 2013.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR § 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic classes of any controlled substances in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: March 12, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–06318 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances, Notice of Registration, Noramco, Inc.

By Notice dated October 9, 2012, and published in the **Federal Register** on October 18, 2012, 77 FR 64142, Noramco, Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801–4417, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances:

Drug	Schedule
Phenylacetone (8501)	II
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import raw Opium (9600) and Poppy Straw concentrate (9670) to manufacture other controlled substances. The company plans to import Tapentadol (9780) in intermediate form for the bulk manufacture of Tapentadol (9780) for distribution to its customers. The company plans to import Phenylacetone (8501) in bulk for the manufacture of a controlled substance.

Comments and requests for hearings on applications to import narcotic raw

material are not appropriate. 72 FR 3417 (2007).

DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Noramco Inc., to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Noramco, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: March 12, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–06321 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances, Notice of Registration, Watson Pharma, Inc.

By Notice dated November 5, 2012, and published in the **Federal Register** on November 13, 2012, 77 FR 67675, Watson Pharma, Inc., 2455 Wardlow Road, Corona, California 92880–2882, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II

The company plans to import the listed controlled substances for analytical testing and clinical trials.

The import of the above listed basic classes of controlled substances will be granted only for analytical testing and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

One comment objecting to the granting of registration as an importer of the basic class of controlled substance listed to this applicant and a request for a hearing were received on December 31, 2012. The objection and request for a hearing were withdrawn.

DEA has considered the factors in 21 U.S.C. 823(a) and § 952(a) and determined that the registration of Watson Pharma, Inc., to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Watson Pharma, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems; verification of the company's compliance with state and local laws; and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: March 12, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–06328 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application: Morton Grove Pharmaceuticals

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 14, 2012, Morton Grove Pharmaceuticals, 6451 Main Street, Morton Grove, Illinois 60053–2633, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Gamma Hydroxybutyric Acid (2010), a basic class of controlled substance listed in schedule I.

The company plans to manufacture the listed controlled substance for distribution to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 20, 2013.

Dated: March 12, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–06332 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration: Noramco, Inc.

By Notice dated November 1, 2012, and published in the **Federal Register** on November 9, 2012, 77 FR 67397, Noramco, Inc., 1440 Olympic Drive, Athens, Georgia 30601, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Codeine-N-Oxide (9053)	I
Dihydromorphine (9145)	I
Morphine-N-oxide (9307)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Noramco, Inc., to manufacture the listed

basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Noramco, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 12, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–06324 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OVC) Docket No. 1619]

Meeting of the SANE/SART AI/AN Initiative Committee

AGENCY: Office for Victims of Crime, Justice.

ACTION: Notice of meeting.

SUMMARY: The National Coordination Committee on the American Indian/Alaska Native (AI/AN) Sexual Assault Nurse Examiner (SANE)—Sexual Assault Response Team (SART) Initiative (‘‘’’National Coordination Committee’’ or ‘‘Committee’’) will meet to carry out its mission to provide valuable advice to assist the Office for Victims of Crime (OVC) to promote culturally relevant, victim-centered responses to sexual violence within AI/AN communities.

DATES AND LOCATIONS: The meeting will be held via webinar on Wednesday, April 17, 2013. The Webinar is open to the public for participation. There will not be a designated time for the public to speak, however the public can observe and submit comments to Kathleen Gless, the Designated Federal Official. Webinar space is limited. To register for the webinar, please provide your full contact information to Kathleen Gless (contact information below).

FOR FURTHER INFORMATION CONTACT: Kathleen Gless, Designated Federal Officer (DFO) for the National Coordination Committee, Office for Victims of Crime, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531; Phone: (202) 307–6049 [**note:** this is not a toll-free number]; Email: *kathleen.gless@usdoj.gov*.

SUPPLEMENTARY INFORMATION: The National Coordination Committee on the American Indian/Alaskan Native (AI/AN) Sexual Assault Nurse Examiner (SANE)—Sexual Assault Response Team (SART) Initiative (‘‘National Coordination Committee’’ or ‘‘Committee’’) was established by the Attorney General to provide valuable advice to OVC to encourage the coordination of federal, tribal, state, and local efforts to assist victims of sexual violence within AI/AN communities, and to promote culturally relevant, victim-centered responses to sexual violence within those communities.

Webinar Agenda: The agenda will include: (a) Traditional welcome and introductions; (b) remarks from the Acting Director of OVC; (c) updates on OVC, FBI and IHS efforts since the December 2012 Committee meeting; (d) large group discussion; (e) the development of recommendations regarding the coordination of federal, tribal and local partners to address sexual violence; and (f) a traditional closing.

Kathleen Gless,

Victim Justice Program Specialist, AI/AN SANE–SART Lead, Designated Federal Official—National Coordination Committee, Office for Victims of Crime.

[FR Doc. 2013–06383 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1616]

Meeting of the Global Justice Information Sharing Initiative Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of the Global Justice Information Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *www.it.ojp.gov/global.*

DATES: The meeting will take place on Thursday, April 11, 2013, from 8:30 a.m. to 4:00 p.m. ET.

ADDRESSES: The meeting will take place at the Hilton Crystal City at Washington Reagan National Airport, 2399 Jefferson Davis Highway, Arlington VA 22202, Phone: (703) 418–6800.

FOR FURTHER INFORMATION CONTACT: J. Patrick McCreary, Global Designated Federal Employee (DFE), Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, Washington, DC 20531; Phone: (202) 616–0532 [note: this is not a toll-free number]; Email: *James.P.McCreary@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with Mr. J. Patrick McCreary at the above address at least (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting.

Anyone requiring special accommodations should notify Mr. McCreary at least seven (7) days in advance of the meeting.

Purpose

The GAC will act as the focal point for justice information systems integration activities in order to facilitate the coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President (through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also advocate for strategies for accomplishing a Global information sharing capability.

Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFE.

J. Patrick McCreary,

Global Designated Federal Employee, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. 2013–06359 Filed 3–19–13; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Process Safety Management of Highly Hazardous Chemicals Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Process Safety Management of Highly Hazardous Chemicals Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before April 19, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain*, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The Process Safety Management of Highly Hazardous Chemicals Standard contains a number of information collection requirements, such as developing written process safety information, procedures and management practices, and operating procedures and safe work practices; and documenting safety history evaluations, contractor policies, and worker training; in addition, covered employers must retain certain records. These information collection requirements are subject to the PRA.

A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0200. The current approval is scheduled to expire on March 31, 2013; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on November 6, 2012 (77 FR 66638).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0200. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Process Safety Management of Highly Hazardous Chemicals Standard.

OMB Control Number: 1218–0200.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 6,993.

Total Estimated Number of Responses: 824,429.

Total Estimated Annual Burden Hours: 4,630,107.

Total Estimated Annual Other Costs Burden: $0.

Dated: March 14, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–06369 Filed 3–19–13; 8:45 am]

BILLING CODE 4510–26–P

MERIT SYSTEMS PROTECTION BOARD

Notice of Opportunity To File Amicus Briefs

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: The Merit Systems Protection Board (MSPB or Board) announces the opportunity to file amicus briefs in the matter of *Barbara R. King* v. *Department of the Air Force,* MSPB Docket Number DA–0752–09–0604–P–1, currently pending before the Board on interlocutory appeal. The administrative judge certified for interlocutory review the question of whether the provisions of the Whistleblower Protection Enhancement Act of 2012 (WPEA), 112 Public Law 199, with regard to damages may be applied retroactively to cases pending prior to its effective date.

Of particular relevance in *King* is the question of the retroactive effect of section 107(b) of the WPEA, which addresses damages available to individuals who have suffered reprisal for protected disclosures or activities. Prior to enactment of the WPEA, the corrective action available to such individuals under the Whistleblower Protection Act (WPA) included reasonable and foreseeable consequential damages, but not compensatory, or non-pecuniary, damages. *See Bohac* v. *Department of Agriculture,* 239 F.3d 1334, 1337–43 (Fed. Cir. 2001). However, under section 107(b) of the WPEA, corrective action may also include ''compensatory damages (including interest, reasonable expert witness fees, and costs).'' Therefore, the Board must determine in *King* whether to apply the WPEA standard or the WPA standard in determining what corrective action is available in appeals pending prior to the effective date of the WPEA.

In *King,* the appellant's protected disclosures and the agency's retaliatory

personnel action occurred in 2009. The appellant filed her initial Board appeal in 2009, and the administrative judge issued an initial decision on October 3, 2012, finding, in relevant part, that the appellant established reprisal for whistleblowing. The initial decision became the final decision of the Board on November 7, 2012, after neither party filed a petition for review. The appellant filed her request for compensatory damages on December 17, 2012. The WPEA was enacted on November 27, 2012, and became effective on December 27, 2012.

Interested persons or organizations may submit amicus briefs or other comments on the question presented in *King* no later than April 12, 2013. Amicus briefs must be filed with the Clerk of the Board. Briefs shall not exceed 30 pages in length. The text shall be double-spaced, except for quotations and footnotes, and the briefs shall be on 8½ by 11 inch paper with one inch margins on all four sides. All amicus briefs received will be posted on the Board's Web site at *www.mspb.gov/SignificantCases.*

DATES: All briefs submitted in response to this notice must be received by the Clerk of the Board on or before April 12, 2013.

ADDRESSES: All briefs shall be captioned ''*Barbara R. King* v. *Department of the Air Force''* and entitled ''Amicus Brief.'' Only one copy of the brief need be submitted. The Board encourages interested persons and organizations to submit amicus briefs as attachments to electronic mail addressed to *mspb@mspb.gov.* An email should contain a subject line indicating that the submission contains an amicus brief in the *King* case. Any commonly-used word processing format or PDF format is acceptable; text formats are preferable to image formats. Briefs may also be filed with the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; fax (202) 653–7130.

FOR FURTHER INFORMATION CONTACT: Molly Leckey, Merit Systems Protection Board, Office of the Clerk of the Board, 1615 M Street NW., Washington, DC 20419; (202) 653–7200; *mspb@mspb.gov.*

William D. Spencer,

Clerk of the Board.

[FR Doc. 2013–06349 Filed 3–19–13; 8:45 am]

BILLING CODE 7400–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical Sciences and Physical Sciences #66; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

NAME: Advisory Committee for Mathematical Sciences and Physical Sciences (#66).

DATES/TIME: April 4, 2013, 1:00 p.m.–5:00 p.m.; April 5, 2013, 8:30 a.m.—12:00 noon.

PLACE: National Science Foundation (NSF), 4201 Wilson Boulevard, Arlington, VA 22230. To help facilitate your entry into the building, contact the individual listed below. Your request to attend this meeting must be received by email *(cmorgan@nsf.gov)* on or prior to April 1, 2013.

TYPE OF MEETING: Open, Virtual.

CONTACT PERSON: Dr. Kelsey Cook, Staff Associate and MPSAC Designated Federal Officer, Directorate for Mathematical and Physical Sciences, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone #: 703–292–7490, 703–292–8800—*kcook@nsf.gov.*

MINUTES: Meeting minutes and other information may be obtained from the Staff Associate and MPSAC Designated Federal Officer at the above address or the Web site at *http://www.nsf.gov/mps/advisory.jsp.*

PURPOSE OF MEETING: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning research in mathematics and physical sciences.

Agenda

Thursday, April 4, 2013, 1:00 p.m.–5:15 p.m.

- State of the Directorate for Mathematical and Physical Sciences
- Report of CHE and DMS Committee of Visitor Reports
- Status Planning Reports: Synchrotron Science Subcommittee, Optics & Photonics Subcommittee; Food/Energy/Water Subcommittee
- Update from the Stats NSF Subcommittee
- Report on Merit Review pilots
- Impact of new travel policies
- New OSTP Open Access policy and NSF response
- Prepare for meeting with OD: MPS issues and challenges

Friday, April 5, 2013, 8:30 a.m.–12:00 noon

- Meeting with NSF Acting Director
- Reports from the Advisory Committee for Cyberinfrastructure, the Advisory Committee for Environmental Research and Education, the Committee on Equal Opportunities in Science and Engineering, and the Advisory Committee for International Science and Engineering.
- Plans and Upcoming Challenges

Dated: March 14, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–06312 Filed 3–19–13; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MC2011–19 and R2011–3; Order No. 1676]

Negotiated Service Agreement

AGENCY: Postal Regulatory Commission.

ACTION: Notice

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Discover Financial Services Negotiated Service Agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 27, 2013.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On January 14, 2011, the Postal Service filed a request pursuant to 39 U.S.C. 3622 and 3642, as well as 39 CFR 3010 and 3020, *et seq.,* to add a Discover Financial Services (DFS) Negotiated Service Agreement (NSA) to the market dominant product list.[1] After a

[1] Notice of the United States Postal Service of Filing Contract and Supporting Data and Request to

comment period, the Commission approved the Request on March 15, 2011 and added the product to the market dominant product list.[2] On March 8, 2013, the Postal Service filed an amendment to the DFS NSA with the Commission.[3]

Contract Amendment. The proposed Amendment seeks to modify how Discover's First-Class Mail revenue is calculated under the contract. *Id.* at 1. Discover has decided to utilize Priority Mail in lieu of a small amount of its First-Class Mail volume. *Id.* The Amendment is designed to adjust the threshold for qualifying for discounts to account for the Priority Mail volume. *Id.* The Amendment proposes that First-Class Mail revenue, for the purposes of achieving the revenue threshold, include ''a sum that represents the revenue value of the DFS Priority Mail piece volume, such sum to be calculated by multiplying DFS's priority Mail piece volume by DFS's average DFS Eligible First-Class Mail postage per piece for the current contract year.'' *Id.* Attachment.

The Postal Service states that the Amendment does not alter the structure or original intent of the agreement and benefits both parties because ''Discover will not be penalized for the upgrade, and the Postal Service will receive a higher contribution per piece from the Discover First-Class mail volume that Discover upgrades * * *.'' Amendment at 2. The Postal Service asserts that the Amendment meets the statutory requirements of improving the net financial position of the Postal Service, while not causing any unreasonable harm to the marketplace. *Id.; see also* 39 U.S.C. 3622(c)(10).

II. Notice of Filings

The Commission reopens Docket Nos. MC2011–19 and R2011–3 to consider the Amendment.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3622, 3632, 3633, or 3642 and 39 CFR parts 3010 and 3020. Comments are due no later than March 27, 2013. The Commission appoints Malin G. Moench to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. Pursuant to 39 U.S.C. 505, Malin G. Moench is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

2. Comments by interested persons in these proceedings are due no later than March 27, 2013.

3. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2013–06358 Filed 3–19–13; 8:45 am]

BILLING CODE 7710–FW–P

Add Discover Financial Services Negotiated Service Agreement to the Market-Dominant Product List, January 14, 2011 (Request).

[2] Order No. 694, Order Adding Discover Financial Services 1 Negotiated Service Agreement to the Market Dominant Product List, March 15, 2011.

[3] Letter from Brandy A. Osimokun, Attorney, United States Postal Service to Shoshana M. Grove, Secretary, Postal Regulatory Commission, Re: Docket No[s]. R2011–3/MC2011–19, March 8, 2013 (Amendment).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30426; 812–14079]

Global X Funds, et al.; Notice of Application

March 14, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''1940 Act'') for exemptions from sections 12(d)(1)(A), (B), and (C) of the 1940 Act, under sections 6(c) and 17(b) of the 1940 Act for an exemption from section 17(a) of the 1940 Act, and under section 6(c) of the 1940 Act for an exemption from rule 12d1–2(a) under the 1940 Act.

SUMMARY: *Summary of the Application:* Applicants request an order that would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies, registered closed-end management investment companies, ''business development companies,'' as defined by section 2(a)(48) of the 1940 Act, and registered unit investment trusts that are within or outside the same group of investment companies as the acquiring investment companies and (b) permit certain registered open-end management investment companies relying on rule 12d1–2 under the 1940 Act to invest in certain financial instruments.

APPLICANTS: Global X Funds (''Trust'''), Global X Management Company LLC (''Adviser'') and SEI Investment Distribution Co. (the ''Distributor'').

DATE *Filing Dates:* The application was filed on September 24, 2012, and amended on February 22, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 8, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Adviser and Trust, 623 Fifth Ave., 15th Floor, New York, NY 10022 and Distributor, 1 Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is an open-end management company registered under the 1940 Act and organized as a Delaware statutory trust. The Trust has multiple series which pursue distinct investment objectives and strategies.[1]

[1] The Applicants request that the order apply not only to any existing series of the Trust, but that the order also extend to any future series of the Trust, and any other existing or future registered open-end management investment companies and any series thereof that are part of the same group of investment companies, as defined in Section 12(d)(1)(G)(ii) of the 1940 Act, as the Trust and are, or may in the future be, advised by the Adviser or any other investment adviser controlling, controlled by, or under common control with the Adviser (together with the existing series of the Trusts, each series a ''Fund,'' and collectively, the ''Funds''). All entities that currently intend to rely on the requested order are named as applicants. Any other

Continued

2. The Adviser, a Delaware limited liability company, is a registered investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser to each of the Funds of Funds (as defined below).[2] The Distributor is a Broker (as defined below) and serves as the existing Funds' principal underwriter and distributor.

3. Applicants request relief to the extent necessary to permit: (a) a Fund (each, a ''Fund of Funds,'' and collectively, the ''Funds of Funds'') to acquire shares of registered open-end management investment companies (each an ''Unaffiliated Open-End Investment Company''), registered closed-end management investment companies, ''business development companies'' as defined by section 2(a)(48) of the 1940 Act (''business development companies'') (each registered closed-end management investment company and each business development company, an ''Unaffiliated Closed-End Investment Company'' and, together with the Unaffiliated Open-End Investment Companies, the ''Unaffiliated Investment Companies''), and registered unit investment trusts (''UITs'') (the ''Unaffiliated Trusts,'' and together with the Unaffiliated Investment Companies, the ''Unaffiliated Funds''), in each case, that are not part of the same ''group of investment companies'' as the Funds of Funds;[3] (b) the Unaffiliated Funds, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act'') (''Broker'') to sell shares of such Unaffiliated Funds to the Funds of Funds; (c) the Funds of Funds to acquire shares of other registered investment companies, including open-end management investment companies and series thereof, closed-end management investment companies and UITs, as well as business development companies (if any), in the same group of investment companies as the Funds of Funds (collectively, the ''Affiliated Funds,'' and, together with the Unaffiliated Funds, the ''Underlying Funds'');[4] and (d) the Affiliated Funds, their principal underwriters and any Broker to sell shares of the Affiliated Funds to the Funds of Funds.[5] Applicants also request an order under sections 6(c) and 17(b) of the 1940 Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds organized as open-end investment companies (''Underlying Open-End Funds'') to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.[6]

4. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the 1940 Act to permit any existing or future Fund of Funds that relies on section 12(d)(1)(G) of the 1940 Act (''Section 12(d)(1)(G) Fund of Funds'') and that otherwise complies with rule 12d1–2 under the 1940 Act, to also invest, to the extent consistent with its investment objective(s), policies, strategies and limitations, in other financial instruments that may not be securities within the meaning of section 2(a)(36) of the 1940 Act (''Other Investments'').

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the 1940 Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the 1940 Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(C) prohibits an investment company from acquiring any security issued by a registered closed-end investment company if such acquisition would result in the acquiring company, any other investment companies having the same investment adviser, and companies controlled by such investment companies, collectively, owning more than 10% of the outstanding voting stock of the registered closed-end investment company.

2. Section 12(d)(1)(J) of the 1940 Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption under section 12(d)(1)(J) of the 1940 Act from the limitations of sections 12(d)(1)(A), (B) and (C) to the extent necessary to permit: (i) the Funds of Funds to acquire shares of Underlying Funds in excess of the limits set forth in section 12(d)(1)(A) and (C) of the 1940 Act; and (ii) the Underlying Funds, their principal underwriters and any Broker to sell shares of the Underlying Funds to the Funds of Funds in excess of the limits set forth in section 12(d)(1)(B) of the 1940 Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A), (B), and (C), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants submit that the proposed structure will not result in the exercise of undue influence by a Fund of Funds or its affiliated persons over

entity that relies on the order in the future will comply with the terms and conditions of the application.

[2] All references to the term ''Adviser'' include successors-in-interest to the Adviser. A successor-in-interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[3] For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[4] Certain of the Underlying Funds may be registered under the 1940 Act as either UITs or open-end management investment companies and have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (collectively, ''ETFs'' and each, an ''ETF''). In addition, certain of the Underlying Funds currently pursue, or may in the future pursue, their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the 1940 Act. In accordance with condition 12, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same ''group of investment companies'' as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same ''group of investment companies'' as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

[5] Applicants state that they do not believe that investments in business development companies present any particular considerations or concerns that may be different from those presented by investments in registered closed-end investment companies.

[6] Applicants note that a Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

the Underlying Funds. Applicants assert that the concern about undue influence does not arise in connection with a Fund of Funds' investment in the Affiliated Funds because they are part of the same group of investment companies. To limit the control a Fund of Funds or Fund of Funds Affiliate [7] may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser and any person controlling, controlled by or under common control with the Adviser, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the 1940 Act advised or sponsored by the Adviser or any person controlling, controlled by or under common control with the Adviser (collectively, the ''Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the 1940 Act to a Fund of Funds (''Sub-Adviser'') and any person controlling, controlled by or under common control with the Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act (or portion of such investment company or issuer) advised or sponsored by the Sub-Adviser or any person controlling, controlled by or under common control with the Sub-Adviser (collectively, the ''Sub-Adviser Group'').

5. With respect to closed-end underlying funds, applicants submit that one significant difference from open-end underlying funds is that, whereas open-end underlying funds may be unduly influenced by the threat of large-scale redemptions, closed-end underlying funds cannot be so influenced because they do not issue redeemable securities and, therefore, are not subject to large-scale redemptions. On the other hand, applicants state that closed-end underlying funds may be unduly influenced by a holder's ability to vote a large block of stock. To address this concern, applicants submit that, with respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. Applicants state that, in this way, an Unaffiliated Closed-End Investment Company will be protected from undue influence by a Fund of Funds through the voting of the Unaffiliated Closed-End Investment Company's shares.

6. Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting'').[8]

7. To further ensure that an Unaffiliated Investment Company understands the implications of a Fund of Funds' investment under the requested exemptive relief, prior to its investment in the shares of an Unaffiliated Investment Company in excess of the limit of section 12(d)(1)(A)(i) of the 1940 Act, a Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that each of their boards of directors or trustees (each, a ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (the ''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (including an ETF or an Unaffiliated Closed-End Investment Company) would also retain its right to reject any initial investment by a Fund of Funds in excess of the limits in section 12(d)(1)(A)(i) of the 1940 Act by declining to execute the Participation Agreement with the Fund of Funds. In addition, an Unaffiliated Investment Company (other than an ETF or closed-end fund whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds. Finally, subject solely to the giving of notice to a Fund of Funds and the passage of a reasonable notice period, an Unaffiliated Fund (including a closed-end fund) could terminate a Participation Agreement with the Fund of Funds.

8. Applicants state that they do not believe that the proposed arrangement will result in excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the 1940 Act (the ''Independent Trustees''), will find that the management or advisory fees charged under a Fund of Funds' advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the 1940 Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or an affiliated person of the Adviser by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund.

9. Applicants further state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in in rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830'').[9]

10. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the 1940 Act in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except in certain

[7] A ''Fund of Funds Affiliate'' is the Adviser, any Sub-Adviser, promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser(s), sponsor, promoter or principal underwriter of any Unaffiliated Fund or any person controlling, controlled by or under common control with any of those entities.

[8] An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, sub-adviser or employee of the Fund of Funds, or a person of which any such officer, director, trustee, investment adviser, sub-adviser, member of an advisory board or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the 1940 Act.

[9] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

circumstances identified in condition 12 below.

B. Section 17(a)

1. Section 17(a) of the 1940 Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the 1940 Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Funds may be deemed to be under the common control of the Adviser and, therefore, affiliated persons of one another. Applicants also state that the Funds of Funds and the Underlying Open-End Funds may also be deemed to be affiliated persons of one another if a Fund of Funds owns 5% or more of the outstanding voting securities of one or more of such Underlying Open-End Funds. Applicants state that the sale of shares by the Underlying Open-End Funds to the Funds of Funds and the purchase of those shares from the Funds of Funds by the Underlying Open-End Funds (through redemptions) could be deemed to violate section 17(a).[10]

3. Section 17(b) of the 1940 Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (i) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policies of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the 1940 Act. Section 6(c) of the 1940 Act permits the Commission to exempt any person or transactions from any provision of the 1940 Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the 1940 Act. Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Open-End Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of each Underlying Open-End Fund.[11] Applicants also state that the proposed transactions will be consistent with the policies of each Fund of Funds and Underlying Open-End Fund, and with the general purposes of the 1940 Act.

C. Other Investments by Section 12(d)(1)(G) Funds of Funds

1. Section 12(d)(1)(G) of the 1940 Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the 1940 Act; (ii) the acquiring company holds only securities of acquired companies that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the 1940 Act, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the 1940 Act by a securities association registered under section 15A of the 1934 Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered UITs in reliance on section 12(d)(1)(F) or (G) of the 1940 Act.

2. Rule 12d1–2 under the 1940 Act permits a registered open-end investment company or a registered UIT that relies on section 12(d)(1)(G) of the 1940 Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the 1940 Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the 1940 Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the 1940 Act.

3. Applicants state that the proposed arrangement would comply with rule 12d1–2 under the 1940 Act, but for the fact that the Section 12(d)(1)(G) Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the 1940 Act for an exemption from rule 12d1–2(a) to allow the Section 12(d)(1)(G) Funds of Funds to invest in Other Investments. Applicants assert that permitting a Section 12(d)(1)(G) Fund of Funds to invest in Other Investments as described in the application would not raise any of the concerns that section 12(d)(1) of the 1940 Act was intended to address.

4. Consistent with its fiduciary obligations under the 1940 Act, a Section 12(d)(1)(G) Fund of Funds' Board will review the advisory fees charged by the Section 12(d)(1)(G) Fund of Funds' investment adviser(s) to ensure that the fees are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Section 12(d)(1)(G) Fund of Funds may invest.

Applicants' Conditions

A. Investments by Funds of Funds in Underlying Funds

Applicants agree that the order granting the requested relief to permit Funds of Funds to invest in Underlying

[10] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the 1940 Act. The Participation Agreement also will include this acknowledgement.

[11] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the 1940 Act, of an ETF to purchase or redeem shares from the ETF. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. Applicants note that a Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

Funds shall be subject to the following conditions:

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The members of a Sub-Adviser Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. With respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. If, as a result of a decrease in the outstanding voting securities of any other Unaffiliated Fund, the Group or a Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of such Unaffiliated Fund, then the Group or the Sub-Adviser Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Sub-Adviser Group with respect to an Unaffiliated Fund for which the Sub-Adviser or a person controlling, controlled by or under common control with the Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the 1940 Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that its Adviser and any Sub-Adviser to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Investment Company or Unaffiliated Trust or any Unaffiliated Fund Affiliate of such Unaffiliated Investment Company or Unaffiliated Trust in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company will maintain and preserve permanently, in an easily accessible place, a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, setting forth (1) the party from whom the securities were acquired, (2) the identity of the underwriting syndicate's members, (3) the terms of the purchase, and (4) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i) of the 1940 Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of

Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the 1940 Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company pursuant to rule 12b–1 under the 1940 Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Sub-Adviser will waive fees otherwise payable to the Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Sub-Adviser, or an affiliated person of the Sub-Adviser, from an Unaffiliated Fund, other than any advisory fees paid to the Sub-Adviser or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Sub-Adviser. In the event that the Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the 1940 Act, in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except to the extent that such Underlying Fund: (a) acquires such securities in compliance with section 12(d)(1)(E) of the 1940 Act and either is an Affiliated Fund or is in the same ''group of investment companies'' as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the 1940 Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes or (ii) engage in inter-fund borrowing and lending transactions.

B. Other Investments by Section 12(d)(1)(G) Funds of Funds

Applicants agree that the order granting the requested relief to permit Section 12(d)(1)(G) Funds of Funds to invest in Other Investments shall be subject to the following condition:

1. Applicants will comply with all provisions of rule 12d1–2 under the 1940 Act, except for paragraph (a)(2) to the extent that it restricts any Section 12(d)(1)(G) Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06401 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30425; 812–13989]

Krane Funds Advisors LLC., et al.; Notice of Application

March 14, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

APPLICANTS: Krane Funds Advisors LLC (''Adviser''), KraneShares Trust (''Trust'') and SEI Investments Distribution Company (''Distributor'').

SUMMARY: *Summary of Application:* Applicants request an order that permits: (a) Certain open-end management investment companies or series thereof to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES: *Filing Dates:* The application was filed on December 8, 2011, and amended on June 5, 2012, November 9, 2012 and March 5, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 5, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Adviser and Trust, 1350 Avenue of the Americas, 2nd Floor, New York, NY 10019 and Distributor, One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–6870 or Jennifer L. Sawin, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is registered as an open-end management investment company under the Act and organized as a Delaware statutory trust. The Trust will initially offer one series, the Krane Shares Dow Jones China Select Dividend ETF (''Initial Fund'') whose performance will correspond generally to the price and yield performance of a particular index comprised solely of securities (''Underlying Index'').[1]

2. Applicants request that the order apply to the Initial Fund and any future series of the Trust and any other future open-end management investment companies, or series thereof, that are advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser (together, the ''Adviser''), and comply with the terms and conditions of the application (''Future Funds,'' and together with the Initial Fund, the ''Funds'').[2] Each Fund will hold certain equity and/or fixed income securities (''Portfolio Securities'') and other financial instruments, assets and positions selected to correspond before fees and expenses generally to the price and yield performance of an Underlying Index (the Portfolio Securities, together with such other instruments, the ''Portfolio Investments'').[3] No entity that creates, compiles, sponsors or maintains an Underlying Index (''Index Provider'') is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person of the Trust, a Fund, or a promoter, the Adviser, a Subadviser or the Distributor of the Trust or Funds.

3. Funds may be based on Underlying Indexes comprised of domestic equity securities (''Domestic Equity Funds''), foreign equity securities (''Foreign Equity Funds''), domestic fixed income securities (''Domestic Fixed Income Funds''), foreign fixed income securities (''Foreign Fixed Income Funds''), or some combination thereof.[4] Certain Underlying Indexes will include only long positions in component securities (''Standard Index'' and Funds based on them, ''Standard Funds''). An Underlying Index's Component Securities may include both long and Short Positions [5] (such an index, a ''Long/Short Index''). Funds based on Long/Short Indexes are ''Long/Short Funds.'' Funds based on an Underlying Index that uses a 130/30 investment strategy (''130/30 Index'') are ''130/30 Funds.''

4. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and will serve as investment adviser to the Funds. The Adviser may enter into sub-advisory agreements with additional investment advisers to act as subadvisers to a Fund (each, a ''Subadviser''). Any Subadviser will be registered under the Advisers Act or not subject to such registration. The Distributor is a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act''). The Distributor will serve as the distributor and principal underwriter of the Shares of Funds. The Distributor is not and will not be affiliated with any exchange on which Shares are listed.

5. The investment objective of each Fund will be to provide investment returns that correspond, before fees and expenses, to the price and yield performance of its Underlying Index.[6] A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund that utilizes a representative sampling strategy will hold a basket of Component Securities, but may not hold all of the Component Securities of the Underlying Index (a Fund that uses a replication strategy invests in substantially all of the Component Securities in the same approximate proportion as they appear in the Underlying Index).[7] Applicants state that a Fund using the representative sampling strategy may not track its Underlying Index with the same degree

[1] The Underlying Index for the Initial Fund is the Dow Jones China Select Dividend Index.

[2] All existing entities that currently intend to rely on the order are named as applicants. Any other existing or future entity that relies on the order will comply with the terms and conditions of the application. An Acquiring Fund (as defined below) may rely on the order only to invest in the Funds and not in any other registered investment company.

[3] Applicants anticipate that many, if not all, of the Foreign Funds and Global Funds (each defined below) will invest a portion of their assets in Depositary Receipts (as defined below) representing the component securities of their respective Underlying Indexes (''Component Securities''). Depositary Receipts are typically issued by a financial institution, a ''Depository,'' and evidence ownership in a security or pool of securities that have been deposited with the Depository. No affiliated persons of applicants, any Fund, or any Subadviser (as defined below) will serve as Depository for any Depositary Receipts held by a Fund.

[4] Funds that invest in both domestic and foreign equity, or both domestic and foreign fixed income, securities are ''Global Equity Funds,'' or ''Global Fixed Income Funds'', respectively. Funds that invest in both equity and fixed income securities are ''Mixed Funds'' and may be Domestic Mixed Funds, Foreign Mixed Funds or Global Mixed Funds. That portion of a Global Fund that invests in domestic securities will comply with the requirements applicable to Domestic Equity and/or Domestic Fixed Income Funds, as applicable, and that portion that invests in foreign securities will comply with the requirements applicable to Foreign Equity and/or Foreign Fixed Income Funds, as applicable. Similarly, that portion of a Mixed Fund that invests in equity securities will comply with the requirements applicable to equity securities of the type held, and that portion of a Mixed Fund that invests in fixed income securities will comply with the requirements applicable to fixed-income securities of the type held. Domestic Equity, Fixed Income, and Mixed Funds are referred to collectively as ''Domestic Funds''; Foreign Equity, Fixed Income and Mixed Funds are referred to collectively as ''Foreign Funds''; and Global Equity, Fixed Income and Mixed Funds are referred to collectively as ''Global Funds''.

[5] ''Short Positions'' include short sales and other short positions and may refer either to (i) Component Securities that are short positions (''Component Security Short Positions'') or (ii) a Fund's holdings in its Asset Basket that are short positions representative of the Component Security Short Positions, as the context may require.

[6] Applicants represent that each Standard Fund will invest at least 80% of its total assets in Component Securities or, as applicable, Depositary Receipts or to-be-announced transactions (''TBA Transactions'') representing such Component Securities. Each Long/Short Fund will invest at least 80% of its total assets in the Component Securities (including Depositary Receipts, TBA Transactions and Short Positions) of a Long/Short Index; for purposes of this calculation, cash proceeds received from short sales will not be included in total assets. Each 130/30 Fund will hold at least 80% of its total assets in Component Securities (including Depositary Receipts, TBA Transactions and Short Positions); cash proceeds from sale of Short Positions will be invested in additional long positions of Component Securities of the 130/30 Index.

Each Fund may also invest up to 20% of its total assets (the ''Asset Basket'') in securities not included in its Underlying Index, Short Positions representative of Component Security Short Positions, and other assets (''Financial Instruments'') such as options on securities, indices and futures contracts, equity caps and floors, swap agreements, forward contracts, and money market instruments, which the Adviser and/or Subadviser believes will assist the Fund in tracking the performance of its Underlying Index.

A TBA Transaction is a method of trading mortgage-backed securities. In a TBA transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date.

[7] A Fund following a representative sampling strategy will select securities having aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings, valuation and yield) and, and liquidity measures similar to those of the Fund's Underlying Index taken in its entirety.

of accuracy as would a Fund that invests in every Component Security of the Underlying Index. Applicants expect that each Fund will have a tracking error relative to the performance of its Underlying Index of less than 5 percent.

6. The Trust will sell and redeem Creation Units of each Fund on any day that the Fund is open, including as required by section 22(e) of the Act (each such day, a ''Business Day''). Applicants state that Creation Units are expected to consist of between 25,000 and 100,000 Shares and that an initial offering price of a Creation Unit will be a minimum of $1 million. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into an agreement with the Distributor (''Authorized Participant''). The Distributor will be responsible for transmitting the orders to the relevant Fund. An Authorized Participant must be either: (a) A broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation, a clearing agency registered with the Commission, or (b) a participant in the Depository Trust Company (''DTC,'' and such participant, ''DTC Participant''). The Distributor also will be responsible for delivering the Fund's prospectus to those persons purchasing Creation Units and for maintaining records of both the order placed with it and the acknowledgements of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the Trust to implement the delivery of Shares.

7. Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemptions will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[8] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and Redemption Instruments will each correspond *pro rata* to the positions in the Fund's portfolio (including cash positions),[9] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[10] (c) TBA Transactions, Short Positions and other positions that cannot be transferred in kind;[11] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of a Fund's portfolio;[12] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing'').

8. If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (''Balancing Amount'').

9. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Balancing Amount, as described above; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions, or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash *in lieu* of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) such instruments are not eligible for transfer through either the NSCC or the DTC; or (ii) in the case of Foreign or Global Funds, such instruments are not eligible for trading due to local restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash *in lieu* of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because (i) such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign or Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[13]

10. Each Business Day, before the open of trading on the national securities exchange (as defined in section 2(a)(26) of the Act) (''Exchange'') on which its Shares are listed (''Primary Listing Exchange''), each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Balancing Amount (if any) for that day. The Primary Listing Exchange will disseminate every 15 seconds throughout the trading day through the facilities of the Consolidated Tape Association the Indicative Intra-Day Value (''IIV'') for each Fund, on a per Share basis. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Because the NSCC's system is not currently capable of processing information with respect to Short Positions and Financial Instruments, for the Long/Short Funds and 130/30 Funds, before the opening of business on each Business Day, the Adviser will provide full portfolio holdings disclosure on the Web site and

[8] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[9] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for that Business Day.

[10] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[11] These instruments will be excluded from the Deposit Instruments and Redemption Instruments, and their value will be reflected in the determination of the Balancing Amount (as defined below).

[12] A Fund may use sampling for this purpose only if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[13] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

develop an ''IIV File'' which it will use to disclose the Fund's full portfolio holdings, including Short Positions and Financial Instruments.[14]

11. An investor purchasing or redeeming a Creation Unit from a Fund may be charged a fee (''Transaction Fee'') to protect the continuing shareholders from the possible dilutive transaction expenses associated with the purchase or redemption of Creation Units.[15] Transaction Fees will be limited to amounts that have been determined by the Fund to be appropriate and will take into account operational processing costs associated with the recent Deposit Instruments and Redemption Instruments of the Funds. In all cases, such Transaction Fees will be limited in accordance with the requirements of the Commission applicable to management investment companies offering redeemable securities.

12. Purchasers of Shares in Creation Units may hold such Shares or may sell such Shares into the secondary market. Shares will be listed and traded at negotiated prices on one or more Exchanges. It is expected that one or more Exchange member firms will be designated to act as a specialist or market maker and maintain a market for Shares of a Fund trading on its Primary Listing Exchange or another Exchange. Price of Shares trading on an Exchange will be based on a current bid-offer market. The sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

13. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Exchange specialists and market makers also may purchase or redeem Creation Units in connection with their market making activities. Applicants expect that secondary market purchasers of Shares will include both institutional investors and retail investors.[16] The price at which Shares trade will be disciplined by arbitrage opportunities created by the ability to purchase or redeem Creation Units at NAV, which should help to ensure that Shares will not trade at a material discount or premium in relation to their NAV.

14. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant.

15. Neither the Trust nor any Fund will be marketed or otherwise held out as a traditional open-end investment company or ''mutual fund.'' Instead, each Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or individual Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that the owners of Shares may acquire or tender such Shares for redemption to the Fund in Creation Units only. The same approach will be followed in shareholder reports and investor educational materials issued or circulated in connection with the Shares. The Funds will provide copies of their shareholder reports to DTC Participants for distribution to shareholders.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to redeem Shares in Creation Units only. Applicants state that Creation Units will be redeemable in accordance with the provisions of the Act. Applicants state that because Creation Units may always be purchased and redeemed at NAV, the secondary market price of the Shares should not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security which is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of

[14] The information on the public Web site will be the same as that disclosed to Authorized Participants in the IIV File, except that (i) the information provided on the Web site will be formatted to be reader-friendly and (ii) the portfolio holdings data on the Web site will be calculated and displayed on a per Fund basis, while the information in the IIV File will be calculated and displayed on a per Creation Unit basis.

[15] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such securities.

[16] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

pricing Shares. Applicants maintain that, while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution system of shares by eliminating price competition from non-contract dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares would not cause dilution for owners of such Shares because such transactions do not directly involve Trust assets, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because competitive forces will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions of Creation Units for Foreign Funds and the foreign investments of Global Funds will be contingent not only on the settlement cycle of the U.S. markets but also on the currently practicable delivery cycles in local markets for the underlying foreign investments held by those Funds. Applicants state that local market delivery cycles for transferring Redemption Instruments to investors redeeming Creation Units, together with local market holiday schedules, will under certain circumstances require a delivery process longer than seven (7) calendar days for the Foreign and Global Funds. Applicants therefore request relief under section 6(c) of the Act from section 22(e) to allow Foreign and Global Funds that deliver Redemption Instruments in-kind to pay redemption proceeds up to a maximum of 14 calendar days after the tender of a Creation Unit for redemption.[17]

8. Applicants believe that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within 14 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state that the SAI for each Foreign and Global Fund will disclose those local holidays, if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and the maximum number of days, up to 14 calendar days, needed to deliver the proceeds for each affected Foreign or Global Fund. Applicants are seeking relief from section 22(e) only to the extent that those Foreign and Global Funds create and redeem in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request an exemption to permit management investment companies (''Acquiring Management Companies'') and unit investment trusts (''Acquiring Trusts'') registered under the Act that are not sponsored or advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Funds (collectively, ''Acquiring Funds'') to acquire shares of a Fund beyond the limits of section 12(d)(1)(A). In addition, applicants seek relief to permit the Funds, the Distributor any Broker to sell Shares to Acquiring Funds in excess of the limits of section 12(d)(1)(B).

11. Each Acquiring Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Acquiring Fund Adviser'') and may be sub-advised by one or more investment advisers within the meaning of section 2(a)(20)(B) of the Act (each an ''Acquiring Fund Sub-adviser''). Any Acquiring Fund Adviser or Acquiring Fund Sub-adviser will be registered under the Advisers Act. Each Acquiring Trust will be sponsored by a sponsor (''Sponsor'').

12. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in section 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

13. Applicants believe that neither an Acquiring Fund nor an Acquiring Fund Affiliate would be able to exert undue influence over a Fund.[18] To limit the control that an Acquiring Fund may have over a Fund, applicants propose a condition prohibiting the Acquiring Fund Adviser, Sponsor, any person controlling, controlled by, or under common control with the Acquiring Fund Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Acquiring Fund Adviser, the Sponsor, or any person controlling, controlled by, or under common control with the Acquiring Fund Adviser or Sponsor (''Acquiring Fund's Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Acquiring Fund Sub-adviser, any person controlling, controlled by or under

[17] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade.

[18] An ''Acquiring Fund Affiliate'' is any Acquiring Fund Adviser, Acquiring Fund Sub-adviser(s), Sponsor, promoter or principal underwriter of an Acquiring Fund, and any person controlling, controlled by or under common control with any of these entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

common control with the Acquiring Fund Sub-adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Acquiring Fund Sub-adviser or any person controlling, controlled by or under common control with the Acquiring Fund Sub-adviser (''Sub-Adviser Group'').

14. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Acquiring Fund or Acquiring Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting'').[19]

15. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Acquiring Management Company, including a majority of the directors or trustees who are not interested directors or trustees within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Acquiring Management Company may invest. In addition, under condition 9, an Acquiring Fund Adviser, or an Acquiring Trust's trustee (''Trustee'') or Sponsor, will waive fees otherwise payable to it by the Acquiring Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received by the Acquiring Fund Adviser, Trustee or Sponsor or an affiliated person of the Acquiring Fund Adviser, Trustee or Sponsor, in connection with the investment by the Acquiring Fund in the Fund. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Acquiring Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[20]

16. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund may acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure that an Acquiring Fund understands and will comply with the terms and conditions of the requested order, the Acquiring Funds must enter into an agreement with the respective Funds (''Participation Agreement'') requiring the Acquiring Fund to adhere to the terms and conditions of the requested order. The Participation Agreement also will include an acknowledgement from the Acquiring Fund that it may rely on the order only to invest in the Funds and not in any other investment company.

17. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by an Acquiring Fund. A Fund would also retain its right to reject any initial investment by an Acquiring Fund in excess of the limits in Section 12(d)(l)(A) of the Act by declining to execute a Participation Agreement with an Acquiring Fund.

Section 17 of the Act

18. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second-tier affiliate''), from selling any security to or acquiring any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a Company and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by the Adviser (an ''Affiliated Fund'').

19. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act in order to permit certain affiliated persons to make in-kind purchases and redemptions with a Fund when they are affiliated persons or second-tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or more than 25%, of the Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds.

20. Applicants contend that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Deposit Instruments, Redemptions Instruments, and the Balancing Amount (except for any permitted cash determined in accordance with section II.B.1.a. of the application) will be the same regardless of the identity of the purchaser or redeemer. The procedures for both in-kind purchases and in-kind redemptions of Creation Units will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments for each Fund will be valued in the same manner as the Portfolio Investments currently held by such Fund and in the same manner for all purchasers and redeemers. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of the Fund.

21. Applicants seek an exemption from Section 17(a) pursuant to Section 17(b) and Section 6(c) of the Act to permit a Fund, to the extent that the Fund is an affiliated person or second-tier affiliate (as defined in Section 2(a)(3)(B) of the Act) of an Acquiring Fund, to sell its Shares to and redeem its Shares from an Acquiring Fund, and to engage in any accompanying in-kind

[19] An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Acquiring Fund Adviser, Acquiring Fund Sub-adviser, employee, or Sponsor of the Acquiring Fund, or a person of which any such officer, director, member of an advisory board, Acquiring Fund Adviser, Acquiring Fund Sub-adviser, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

[20] All references to NASD Conduct Rule 2830 include any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

transactions.[21] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Further, absent the unusual circumstances discussed in section II.B of the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond pro rata to the Fund's Portfolio Investments. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Shares.[22] Applicants believe that any proposed transactions directly between the Funds and Acquiring Funds will be consistent with the policies and procedures of each Fund involved as set forth in its registration statements. The Participation Agreement will require any Acquiring Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Acquiring Fund will be accomplished in compliance with the investment restrictions of the Acquiring Fund and will be consistent with the investment policies set forth in the Acquiring Fund's registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

ETF Relief

1. As long as a Fund operates in reliance on the requested order, its Shares will be listed on an Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Unit or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from a Fund and tender those Shares for redemption to a Fund in Creation Units only.

3. The Web site maintained for the Funds, which will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or the Bid/Ask Price against such NAV.

4. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based exchange-traded funds.

Section 12(d)(1) Relief

Applicants agree that any order granting the requested 12(d)(1) relief will be subject to the following conditions:

5. The members of an Acquiring Funds' Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Sub-adviser Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, an Acquiring Funds' Advisory Group or the Sub-adviser Group, each in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund Shares. This condition does not apply to the Sub-adviser Group with respect to a Fund for which the Acquiring Fund Sub-adviser or a person controlling, controlled by, or under common control with the Acquiring Fund Sub-adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

6. No Acquiring Fund or Acquiring Funds Affiliate will cause any existing or potential investment by the Acquiring Fund in a Fund to influence the terms of any services or transactions between the Acquiring Fund or an Acquiring Funds Affiliate and the Fund or a Fund Affiliate.

7. The board of directors or trustees of an Acquiring Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Acquiring Fund Adviser and any Acquiring Fund Sub-adviser are conducting the investment program of the Acquiring Management Company without taking into account any consideration received by the Acquiring Management Company or an Acquiring Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

8. Once an investment by an Acquiring Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of trustees of the Trust (''Board''), including a majority of the disinterested Board members, will determine that any consideration paid by the Fund to the Acquiring Fund or an Acquiring Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (b) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

9. An Acquiring Fund Adviser, or a Trustee or Sponsor of an Acquiring Trust, as applicable, will waive fees otherwise payable to it by the Acquiring Management Company or Acquiring Trust in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Acquiring Fund Adviser, Trustee or Sponsor, or an affiliated person of the Acquiring Fund Adviser, Trustee or Sponsor, other than any advisory fees paid to the Acquiring Fund Adviser, Trustee, or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Acquiring Fund in the Fund. Any Acquiring Fund Sub-adviser will waive fees otherwise payable to the Acquiring Fund Sub-adviser, directly or indirectly, by the Acquiring Management Company

[21] To the extent that purchases of Shares of a Fund occur in the secondary market and not through principal transactions directly between an Acquiring Fund and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to an Acquiring Fund and redemptions of those Shares. The requested relief is also intended to cover the in-kind transactions that would accompany such sales and redemptions.

Applicants are not seeking relief from section 17(a) for, and the requested relief would not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of an Acquiring Fund because the Adviser (or any entity controlling, controlled by or under common control with the Adviser) provides investment advisory services to that Acquiring Fund.

[22] Applicants acknowledge that receipt of compensation by (a) an affiliated person of an Acquiring Fund, or an affiliated person of such person, for the purchase by the Acquiring Fund of Shares or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Acquiring Fund may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgment.

in an amount at least equal to any compensation received from a Fund by the Acquiring Fund Sub-adviser, or an affiliated person of the Acquiring Fund Sub-adviser, other than any advisory fees paid to the Acquiring Fund Sub-adviser or its affiliated person by the Fund, in connection with any investment by the Acquiring Management Company in the Fund made at the direction of the Acquiring Fund Sub-adviser. In the event that the Acquiring Fund Sub-adviser waives fees, the benefit of the waiver will be passed through to the Acquiring Management Company.

10. No Acquiring Fund or Acquiring Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause the Fund to purchase a security in any Affiliated Underwriting.

11. The Board, including a majority of the disinterested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by a Fund in an Affiliated Underwriting, once an investment by the Acquiring Fund in the Shares of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Acquiring Fund in the Fund. The Board will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

12. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings, once an investment by an Acquiring Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

13. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), each Acquiring Fund and the Fund will execute a Participation Agreement stating, without limitation, that their boards of directors or trustees and their investment advisers, or their Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Acquiring Fund will notify the Fund of the investment. At such time, the Acquiring Fund will also transmit to the Fund a list of the names of each Acquiring Fund Affiliate and Underwriting Affiliate. The Acquiring Fund will notify the Fund of any changes to the list of names as soon as reasonably practicable after a change occurs. The Fund and the Acquiring Fund will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

14. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Acquiring Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Acquiring Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Acquiring Management Company.

15. Any sales charges and/or service fees charged with respect to shares of an Acquiring Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

16. No Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06399 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69134; File No. SR–NYSEARCA–2013–24]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services With Respect to the Retail Order Tier

March 14, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. *Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change*

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') with respect to the Retail Order Tier. The Exchange proposes to implement the fee changes on March 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to the Retail Order Tier. The Exchange proposes to implement the fee changes on March 1, 2013.

Currently, ETP Holders, including Market Makers, receive a $0.0032 per share credit for Retail Orders [4] that provide liquidity in Tape A, Tape B, and Tape C Securities if the ETP Holder executes an average daily volume (''ADV'') of Retail Orders during the month that is 0.40% or more of the United States Consolidated Average Daily Volume (''US CADV'') for transactions reported to the Consolidated Tape. For all other fees and credits, tiered or basic rates apply based on a firm's qualifying levels. The Exchange proposes to (i) lower the ADV requirement for the Retail Order Tier from 0.40% of US CADV to 0.20% of US CADV and (ii) increase the credit from $0.0032 to $0.0033 per share. The Exchange is proposing these changes because it wants to encourage participation from a greater number of ETP Holders, which would promote additional liquidity in Retail Orders.

The proposed change is not otherwise intended to address any other problem, and the Exchange is not aware of any significant problem that ETP Holders would have in complying with the proposed change.

[4] A Retail Order is an agency order that originates from a natural person and is submitted to the Exchange by an ETP Holder, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Securities Exchange Act Release No. 67540 (July 30, 2012), 77 FR 46539 (August 3, 2012) (SR–NYSEArca–2012–77).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that lowering the ADV requirement for the Retail Order Tier from 0.40% of US CADV to 0.20% of US CADV and increasing the credit from $0.0032 to $0.0033 per share is reasonable because the Exchange believes it would encourage participation from a greater number of ETP Holders, which would promote additional liquidity in Retail Orders. In this regard, the Exchange believes that maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that lowering the threshold and increasing the credit is reasonable because the current threshold and credit have not encouraged sufficient additional liquidity and competition in Retail Orders on the Exchange. The Exchange believes that lowering the ADV requirement for the Retail Order Tier is equitable and not unfairly discriminatory because all similarly ETP Holders would be subject to the same fee structure. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because it is not the only manner in which ETP Holders may qualify for additional credits. The Exchange notes that certain other existing pricing Tiers within the Fee Schedule make credits available to ETP Holders that are also based on the ETP Holder's level of activity as a percentage of US CADV. These existing percentage thresholds, depending on other related factors and the level of the corresponding credits, are within a range that is consistent with the 0.20% proposed herein.[7] Lastly, the Exchange believes that lowering the ADV requirement for the Retail Order Tier would allow more ETP Holders to qualify for the $0.0033 credit, which is equitable and not unfairly discriminatory because the Retail Order Tier is optional and available to all ETP Holders on an equal and non-discriminatory basis.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because lowering the ADV requirement for the Retail Order Tier would encourage more ETP Holders to place Retail Orders, which would promote competition in Retail Orders on the Exchange. As stated above, the Exchange believes that the proposed change would impact all similarly situated market participants equally, and as such, the proposed change would not impose a disparate burden on competition either among or between classes of market participants. In addition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [8] of the Act and subparagraph (f)(2) of Rule 19b–4 [9] thereunder, because it establishes a due,

[7] For example, Tier 3 requires, in part, that an ETP Holder provide liquidity of 0.20% or more, but less than 0.30% of the US CADV in order to qualify for a credit of $0.0022 or $0.0025 per share for orders that provide liquidity on the Exchange. However, Tier 3 is not limited to providing liquidity in Retail Orders.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [10] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule–comments@sec.gov.* Please include File Number SR–NYSEARCA–2013–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2013–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2013–24 and should be submitted on or before April 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06353 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69135; File No. SR–BOX–2013–11]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Price Improvement Period (''PIP'') Rule 7150

March 14, 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 March 7, 2013, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the BOX Price Improvement Period (''PIP'') Rule 7150, to provide that in instances where a Primary Improvement Order is matched by only one competing order, the Initiating Participant may retain priority for up to fifty percent (50%) of the size of the PIP Order.[3] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 the BOX Price Improvement Period (''PIP'') Rule 7150, to provide that in instances where a Primary Improvement Order is matched by only one competing order, the Initiating Participant may retain priority for up to fifty percent (50%) of the size of the PIP Order.[4] This is a competitive filing that is based on price improvement auction rules of the Chicago Board Option Exchange, Inc. (''CBOE'') [5] and NASDAQ OMX PHLX LLC (''Phlx'').[6]

Upon conclusion of the PIP, BOX Rule 7150(g) allows the Initiating Participant to retain certain priority and trade allocation privileges for both Single-Priced Primary Improvement Orders and Max Improvement Primary Improvement Orders (''Improvement Orders''). Currently, Rule 7150(g)(1) provides that when a Single-Priced Primary Improvement Order is matched by or matches any competing Improvement Order(s) [7] and/or non-Public Customers' Unrelated Order(s) at any price level, the Initiating Participant retains priority for only forty percent (40%) of the original size of the PIP Order, notwithstanding the time priority of the Primary Improvement Order, competing Improvement Order(s) or non-Public Customer Unrelated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''PIP Order'' is defined within Rule 7150 to mean a Customer Order designated for the PIP.

[4] ''PIP Order'' is defined within Rule 7150 to mean a Customer Order designated for the PIP.

[5] *See* CBOE Rule 6.74A(b)(3)(F).

[6] *See* PHLX Rule 1080(n)(ii)(E)(2)(a).

[7] An Improvement Order is an order submitted on the opposite side of the PIP Order, competing with the Primary Improvement Order for execution against the PIP Order.

Order(s). The Initiating Participant receives additional allocation only after all other orders have been filled at the final price level. Additionally, Rule 7150(g)(2) provides that when a Max Improvement Primary Improvement Order is submitted by the Initiating Participant, the Initiating Participant retains priority for 40% of the remaining size of the PIP Order at the price level where the balance of the PIP Order is fully executed. The result of both these current rules is that even when an Improvement Order is matched by only one competing order, the Initiating Participant's allocation priority remains at forty percent (40%) and the Participant who responded receives the remaining sixty percent (60%) of the PIP Order.

The Exchange proposes to amend both Rule 7150(g)(1) and 7150(g)(2) to increase the Initiating Participant's allocation priority to fifty percent (50%) when there is only one competing order for a Single Priced Primary Improvement Order or Max Improvement Primary Improvement Order.

The Exchange believes that increasing the Initiating Participant's allocation priority in these instances fairly distributes the PIP Order when there are only two counterparties to the PIP Order involved, and that doing so is reasonable because of the value that Initiating Participants provide to the market. Initiating Participants guarantee the PIP Order an execution at the NBBO or at a better price, and are subject to market risk while the PIP Order is exposed to other BOX Participants. While other PIP Participants are also subject to market risk, those providing responses in the PIP through Improvement Orders are not permitted to cancel their orders, and may only modify their Improvement Order, including reducing their order quantity, by providing a better price. The Exchange believes that the Initiating Participant acts in a critical role in the PIP as their willingness to guarantee the customer PIP Order an execution at a price equal to or better than NBBO is the keystone to the customer order gaining the opportunity for price improvement.

BOX's PIP allows for broad participation in its competitive auction by all types of market Participants (e.g. Public Customers, Broker Dealers and Market Makers). All Options Participants are able to receive the PIP Broadcasts and may respond by submitting competing Improvement Orders. The Exchange believes that this proposal will not discourage Participants from entering into or responding to a PIP Order, and is meant only to fairly distribute the allocation priority in instances where there is only one competing order within the auction.

Finally, the Exchange proposes to amend Rule 7150(g)(6)(i) regarding the PIP Surrender Quantity to delete specific references to the trade allocation percentages and clarify how the trading system handles the Surrender Quantity functionality. These references provide that an Initiating Participant may designate a Surrender Quantity (a lower amount of the PIP Order for which it retains priority and trade allocation privileges), and changing the allocation when only one competing order matches an Improvement Order eliminates the necessity to define the surrender quantity that the Initiating Participant is entitled to within the first sentence of Rule 7150(g)(6)(i). The Exchange also proposes to amend this provision to clarify that under no circumstances can the Initiating Participant receive more than its maximum allowable allocation percentage upon conclusion of the PIP; 40% with multiple competing orders and 50% with only one competing order.

For example, at the commencement of the PIP the Initiating Participant submits a PIP Order and Primary Improvement Order for 100 contracts and a PIP Surrender Quantity of 55 contracts, designating that it is willing to surrender fifty-five (55%) of the PIP Order to other PIP Participants. Therefore, the Initiating Participant is only retaining priority of 45% of the PIP Order. If there is only competing order this will be accepted because the Initiating Participant could have received 50% of the PIP Order. However, when there is more than one competing order then the Initiating Participant's allocation will drop to its maximum allowable allocation percentage, or 40%.

In the same scenario as above, but with the Initiating Participant designating a Surrender Quantity of seventy-five (75%), the Initiating Participant is only seeking to retain priority of 25% of the PIP Order. This would be allowed regardless of the number of competing orders. However, if the Initiating Participant designates a Surrender Quantity of forty (40%), seeking to retain priority of 60% of the PIP Order, this is not valid for either maximum allowable allocation percentage. Therefore the Initiating Participant's priority would be dropped to 50% (one competing order) or 40% (multiple competing orders.)

After the notice of effectiveness of the proposed rule change, and at least one week prior to the operative date, the Exchange will issue an information circular to inform BOX Participants of the implementation date for the trade allocation percentage changes on the PIP.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[8] in general, and Section 6(b)(4) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, the Exchange believes the proposed rule change protects investors and is in the public interest because it fairly distributes the allocation of the PIP Order between the Initiating Participant and the Options Participant who responded when those Participants are the only two counterparties to the PIP Order. The Exchange believes that this proposed rule change may increase the frequency with which Options Participants initiate a PIP Order which may result in greater opportunity for price improvement for customers.

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. This change is meant to more fairly distribute the allocation priority when there are only two counterparties to a PIP Order involved and BOX does not believe that this change will discourage any Participants from entering into the PIP.

Furthermore, as indicated above the Exchange notes that the rule change is being proposed as a competitive response to similar provisions in the price improvement auction rules of the CBOE and PHLX that have been approved by the Commission.[10] The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish more

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] *See supra* note 4[sic] and 5.

uniform price improvement auctions rules on the various exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2013–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2013–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2013–11 and should be submitted on or before April 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06402 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69142; File No. SR–NASDAQ–2013–048]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Adopt Chapter V, Section 3 Subparagraph (d)(iv) Regarding Obvious Error or Catastrophic Error Review

March 15, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1], and Rule 19b–44 thereunder,[2] notice is hereby given that, on March 14, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a subparagraph (d)(iv) to provide for how NASDAQ proposes to treat options errors in response to the Regulation NMS Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is below; proposed new language is in italics.

* * * * *

Chapter V Regulation of Trading on NOM

* * * * *

Sec. 3 Trading Halts

(a)–(c) No change.

(d) This paragraph shall be in effect during a pilot period to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time (''LULD Plan''), *except as specified in subparagraph (v) below.* Capitalized terms used in this paragraph shall have the same meaning as provided for in the LULD Plan. During a Limit State and Straddle State in the Underlying NMS stock:

(i)–(iii) No change.

(iv) For a one year period following the adoption of this subparagraph (iv), trades are not subject to an obvious error or catastrophic error review pursuant to Chapter V, Sections 6(b) or 6(f). Nothing in this provision shall prevent trades from review on Exchange motion pursuant to Chapter V, Section 6(d)(i).

(e) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 adopt Chapter V, Section 3(d)(iv) [3] to provide for how NOM will treat options orders in response to the Regulation NMS Plan to Address Extraordinary Market Volatility (the ''Plan''), which is applicable to all NMS stocks, as defined in Regulation NMS Rule 600(b)(47). The Exchange proposes to adopt Section 3(d)(iv) for a one year pilot period.[4]

Background

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, *i.e.,* the ''flash crash,'' the equities exchanges and the Financial Industry Regulatory Authority (''FINRA'') have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. The measures adopted include pilot plans for stock-by-stock trading pauses,[5] related changes to the equities market clearly erroneous execution rules,[6] and more stringent equities market maker quoting requirements.[7] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[8] In addition, the Commission approved changes to the equities market-wide circuit breaker rules on a pilot basis to coincide with the pilot period for the Plan.[9]

The Plan is designed to prevent trades in individual NMS stocks from occurring outside of specified Price Bands.[10] As described more fully below, the requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). All trading centers in NMS stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the requirements specified in the Plan.

As set forth in more detail in the Plan, Price Bands consisting of a Lower Price Band and an Upper Price Band for each NMS Stock are calculated by the Processors.[11] When the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band, the Processors shall disseminate such National Best Bid (Offer) with an appropriate flag identifying it as unexecutable. When the National Best Bid (Offer) is equal to the Upper (Lower) Price Band, the Processors shall distribute such National Best Bid (Offer) with an appropriate flag identifying it as a Limit State Quotation.[12] All trading centers in NMS stocks must maintain written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for NMS stocks. Notwithstanding this requirement, the Processor shall display an offer below the Lower Price Band or a bid above the Upper Price Band, but with a flag that it is non-executable. Such bids or offers shall not be included in the National Best Bid or National Best Offer calculations.[13] Trading in an NMS stock immediately enters a Limit State if the National Best Offer (Bid) equals but does not cross the Lower (Upper) Price Band.[14] Trading for an NMS stock exits a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market does not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause pursuant to Section VII of the Plan, which would be applicable to all markets trading the security.[15] In addition, the Plan defines a Straddle State as when the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS stock is not in a Limit State. For example, assume the Lower Price Band for an NMS Stock is $9.50 and the Upper Price Band is $10.50, such NMS stock would be in a Straddle State if the National Best Bid were below $9.50, and therefore unexecutable, and the National Best Offer were above $9.50 (including a National Best Offer that could be above $10.50). If an NMS stock is in a Straddle State and trading in that stock deviates from normal trading characteristics, the Primary Listing Exchange may declare a trading pause for that NMS stock if such Trading Pause would support the Plan's goal to address extraordinary market volatility.

Proposal

The Exchange proposes to adopt new Chapter V, Section 3(d)(iv) to provide that trades are not subject to an obvious error or catastrophic error review pursuant to Chapter V, Section 6(b) or 6(f) during a Limit State or Straddle State.

Currently, under Sections 6(b)(i) and (f)(i), obvious and catastrophic errors are calculated by determining a theoretical price and applying such price, based on objective standards, to ascertain whether the trade should be nullified or adjusted. Trades are adjusted pursuant to an adjustment table that, in effect, assesses an adjustment penalty. By adjusting trades above or below the theoretical price, the rule assesses a ''penalty'' in that the adjustment price is not as favorable as the amount the party making the error would have received had it not made the error.

Pursuant to Section 6(c), the theoretical price of an option is determined in one of two ways: (i) If the series is traded on at least one other options exchange, the mid-point of the

[3] The provisions of Section (d)(i) and (ii) and (e) were filed and became effective on February 28, 2013, with a 30 day operative delay, on a pilot basis. *See* Securities Exchange Act Release No. 69120 (March 12, 2013) (SR–NASDAQ–2013–040). Section (d)(iii) was filed as SR–NASDAQ–2013–043. *See* Securities Exchange Act Release No. 69069 (March 7, 2013), 78 FR 15995 (March 13, 2013).

[4] The Exchange will conduct its own analysis concerning the elimination of obvious and catastrophic error provisions during Limit States and Straddle States and agrees to provide the Commission with relevant data to assess the impact of this proposed rule change. As part of its analysis, the Exchange will evaluate: (1) The options market quality during Limit States and Straddle States; (2) assess the character of incoming order flow and transactions during Limit States and Straddle States; and (3) review any complaints from members and their customers concerning executions during Limit States and Straddle States. Additionally, the Exchange agrees to provide to the Commission data requested to evaluate the impact of the elimination of the obvious and catastrophic error provisions, including data relevant to assessing the various analyses noted above.

[5] *See e.g.,* NASDAQ Rule 4120.

[6] *See e.g.,* NASDAQ Rule 4762.

[7] *See e.g.,* NASDAQ Rule 4613.

[8] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving the Plan on a Pilot Basis).

[9] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129).

[10] Unless otherwise specified, capitalized terms used in this proposed rule change are based on the defined terms of the Plan.

[11] *See* Section V(A) of the Plan.

[12] *See* Section VI(A) of the Plan.

[13] *See* Section VI(A)(3) of the Plan.

[14] *See* Section VI(B)(1) of the Plan.

[15] The primary listing market would declare a Trading Pause in an NMS stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS stock could occur during the trading pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

National Best Bid and Offer (''NBBO''), just prior to the transaction; or (ii) If there are no quotes for comparison purposes, as determined by MarketWatch as defined in Chapter I. Recently, the Exchange amended Section 6(c)(i) to change the first method to provide that if the series is traded on at least one other options exchange, the theoretical price is the last National Best Bid price with respect to an erroneous sell transaction and the last National Best Offer price with respect to an erroneous buy transaction, just prior to the transaction.[16]

The Exchange believes that neither of these methods is appropriate during a Limit State or Straddle State. As discussed above, during a Limit State or Straddle State, options prices may deviate substantially from those available prior to or following the State. The Exchange believes the new provision (once operative) would give rise to much uncertainty for market participants as there is no bright line definition of what the theoretical price should be for an option when the underlying NMS stock has an unexecutable bid or offer or both. Determining theoretical price in such a situation would be often times very subjective as opposed to an objective determination giving rise to additional uncertainty and confusion for investors. Accordingly, the Exchange does not believe that the approach which depends on a reliable NBBO in the option is appropriate during a Limit State or Straddle State. While in a Limit State or Straddle State, only limit orders will be accepted by the Exchange, affirming that the participant is willing to accept an execution up to the limit price. Further, because the Exchange system will only trade through the theoretical bid or offer if the Exchange or the participant (via an ISO order) has accessed all better priced interest away in accordance the Options Order Protection and Locked/Crossed Markets Plan, the Exchange believes potential trade reviews of executions that occurred at the participant's limit price and also in compliance with aforementioned Plan could result in uncertainty that could harm liquidity and also could create an advantage to either side of an execution depending on the future movement of the underlying stock.

The Exchange recognizes that the second method (in Section (c)(ii)) affords discretion to Exchange staff in determining the theoretical price and thereby, ultimately, whether a trade is busted or adjusted and to what price. The Exchange has determined that it would be difficult to exercise such discretion in periods of extraordinary market volatility and in particular when the price of the underlying security is unreliable. Moreover, the theoretical price would be subjective. Thus, the Exchange has determined not to permit an obvious or catastrophic error review if there are no quotes for comparison purposes. The Exchange believes that adding certainty to the execution of orders in these situations should encourage market participants to continue to provide liquidity to the Exchange and thus promote a fair and orderly market.

In addition, the Exchange proposes to provide that trades are not subject to an obvious error and catastrophic error review if pursuant to Section 6(b)(ii) the trade resulted from an execution price in a series quoted no bid. A zero bid option refers to an option where the bid price is $ 0.00. Series of options quoted zero bid are usually deep out-of-the-money series that are perceived as having little if any chance of expiring in-the-money. For this reason, relatively few transactions occur in these series and those that do are usually the result of a momentary pricing error.

Specifically, under this provision, where the trade resulted in an execution price in a series that was, and for five seconds prior to the execution remained, quoted no bid and at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid at the time of the erroneous execution, the trade shall be nullified. For purposes of this provision, bids and offers of the parties to the subject trade that are in any of the series in the same options class shall not be considered. The Exchange believes that these situations are not appropriate for an error review because they are more likely to result in a windfall to one party at the expense of another, in a Limit State or Straddle State, because the criteria for meeting the no-bid provision are more likely to be met in a Limit State or Straddle State, and unlike normal circumstances, may not be a true reflection of the value of the series being quoted. For example, in a series quoted $1.95–$2.00 on multiple exchanges prior to the Limit State or Straddle State, an order to B10@ $2.00 is likely a reasonably priced trade because the buyer attempted to pay $2.00 with a limit price. However, if that series and the series one strike below are both quoted $0.00–$5.00, then both the seller and the buyer at $2.00 would have an opportunity to dispute the trade. This would create uncertainty to both parties and an advantage to one participant if the underlying stock moved significantly in their direction.

Rationale

When NASDAQ OMX PHLX (''PHLX'') Rule 1092 was first adopted, the Commission stated that it ''* * * considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an 'obvious error' may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an 'obvious error' has occurred, and the adjustment or nullification of a transaction because an obvious error is considered to exist, should be based on specific and objective criteria and subject to specific and objective procedures. * * * The Commission believes that Phlx's proposed obvious error rule establishes specific and objective criteria for determining when a trade is an 'obvious error.' Moreover, the Commission believes that the Exchange's proposal establishes specific and objective procedures governing the adjustment or nullification of a trade that resulted from an 'obvious error.' ''[17]

In 2008, PHLX amended Rule 1092 to adopt the catastrophic error provision. In doing so, the Exchange stated that it had ''* * * weighed carefully the need to assure that one market participant is not permitted to receive a windfall at the expense of another market participant that made an Obvious Error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. The Exchange states that, while it believes that the Obvious Error Rule strikes the correct balance in most situations, in some extreme situations, trade participants may not be aware of errors that result in very large losses within the time periods currently required under the rule. In this type of extreme situation, the Exchange believes its members should be given more time to seek relief so that there is a greater opportunity to mitigate very large losses and reduce the corresponding large wind-falls. However, to maintain the appropriate balance, the Exchange believes members should only be given more time when the execution price is

[16] Securities Exchange Act Release No. 69058 (March 7, 2013), 78 FR 15997 (March 13, 2013) (SR–NASDAQ–2013–039). It became effective on February 26, 2013 and will become operative 30 days thereafter.

[17] *See* Securities Exchange Act Release No. 49785 (May 28, 2004), 69 FR 32090 (June 8, 2004) (SR–Phlx–2003–68).

much further away from the theoretical price than is required for Obvious Errors so that relief is only provided in extreme circumstances.''[18]

The Exchange believes that this proposal is consistent with those principles because it strikes the aforementioned balance. The Exchange is proposing to decline to review trades, which is specific and objective. Furthermore, the proposal more fairly balances the potential windfall to one market participant against the potential reconsideration of a trading decision under the guise of an error, and thereby results in more certainty during periods of extreme market volatility.

The Exchange notes that there are additional protections in place outside of the Obvious and Catastrophic Errors Rule, specifically pre-trade protections. First, SEC Rule 15c3–5 requires that, ''financial risk management controls and supervisory procedures must be reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds, or that appear to be erroneous.''[19] Secondly, the Exchange has price checks applicable to limit orders that reject limit orders that are priced sufficiently far through the NBBO that it seems likely an error occurred. The requirements placed upon broker-dealers to adopt controls to prevent the entry of orders that appear to be erroneous, coupled with Exchange functionality that filters out orders that appear to be erroneous serve to sharply reduce the incidence of errors arising from situations, for example, where participants mistakenly enter an order to pay $20 for an option that is offered at $2. Accordingly, the Exchange believes it is appropriate to eliminate any potential protection applying the obvious or catastrophic error rule might provide during Limit States and Straddle States, as its application may produce inequitable results.

The Exchange may still review transactions in the interest of maintaining a fair and orderly market and for the protection of investors, on its own motion, determine to review trades that are believed to be erroneous that occur during a Limit State or a Straddle State in accordance with Chapter V, Section 6(d)(i). The Exchange believes that this safeguard will provide the flexibility for the Exchange to act when necessary and appropriate to nullify or adjust a transaction, while also providing market participants with certainty that trades they effect with quotes and/or orders having limit prices will stand irrespective of subsequent moves in the underlying security. The right to review on Exchange motion transactions that occur during a Limit State or Straddle State under this provision would also allow the Exchange to account for unforeseen circumstances that result in obvious or catastrophic errors for which a nullification or adjustment may be necessary in order to preserve the interest of maintaining a fair and orderly market and for the protection of investors. The Exchange understands that this provision is specifically limited to maintaining a fair and orderly market for the protection of investors and will administer it in a manner that is consistent with the principles of the Act. The Exchange will create and maintain records relating to the use of the authority to act on its own motion during a Limit State or Straddle State, including when the Exchange received requests to act on its motion and determined not to as well as any complaints related to the Exchange's use of such authority.

Various Exchange staff have, over time, spoken to a number of member organizations about how to treat obvious and catastrophic errors during a Limit State or Straddle State, with no one viewpoint particularly emerging; rather, the Exchange staff has heard a variety of views, mostly focused on having many trades stand, on fairness and fair and orderly markets and on being able to re-address the details during the course of the pilot, if needed.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[20] in general, and with Section 6(b)(5) of the Act,[21] in particular, requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it should provide certainty about how errors involving options orders and trades will be handled during periods of extraordinary volatility in the underlying security. The Exchange further believes that it is necessary and appropriate in the interest of promoting fair and orderly markets to exclude transactions executed during a Limit State or Straddle State from Section 6(b). The Exchange believes the application of the current rule will be impracticable given the lack of a reliable NBBO in the options market during Limit States and Straddle States, and that the resulting actions (*i.e.,* nullified trades or adjusted prices) may not be appropriate given market conditions. This change would ensure that limit orders that are filled during a Limit State or Straddle State would have certainty of execution in a manner that promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system. Moreover, given that options prices during brief Limit States or Straddle States may deviate substantially from those available shortly following the Limit State or Straddle State, the Exchange believes giving market participants time to re-evaluate a transaction would create an unreasonable adverse selection opportunity that would discourage participants from providing liquidity during Limit States or Straddle States. In this respect, the Exchange notes that by rejecting market orders and stop orders, and cancelling pending market orders and stop orders, only those orders with a limit price will be executed during a Limit State or Straddle State. Therefore, on balance, the Exchange believes that removing the potential inequity of nullifying or adjusting executions occurring during Limit States or Straddle States outweighs any potential benefits from applying certain provisions during such unusual market conditions. Additionally, as discussed above, there are additional pre-trade protections in place outside of Section 6 that will continue to safeguard customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the proposal does not impose an intra-market burden on competition, because it will apply to all members. Nor will the proposal impose a burden on competition among the options exchanges, because, in addition

[18] *See* Securities Exchange Act Release No. 58002 (June 23, 2008), 73 FR 36581 (June 27, 2008) (SR–Phlx–2008–42) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Catastrophic Errors).

[19] *See* Securities and Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69791 (November 15, 2010) (S7–03–10).

[20] 15 U.S.C. 78f.

[21] 15 U.S.C. 78f(b)(5).

to the vigorous competition for order flow among the options exchanges, the proposal addresses a regulatory situation common to all options exchanges. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct order flow to competing venues. The Exchange believes this proposal will not impose a burden on competition and will help provide certainty during periods of extraordinary volatility in an NMS stock.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (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–NASDAQ–2013–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–048. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–048 and should be submitted on or before April 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06397 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69140; File No. SR–BX–2013–026]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change to Adopt Chapter V, Section 3 Subparagraph (d)(iv) Regarding Obvious Error or Catastrophic Error Review

March 15, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 14, 2013, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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 Exchange proposes to adopt a subparagraph (d)(iv) to provide for how BX proposes to treat options errors in response to the Regulation NMS Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is below; proposed new language is in italics.

* * * * *

Chapter V Regulation of Trading on BX Options

* * * * *

Sec. 3 Trading Halts

(a)–(c) No change.

(d) This paragraph shall be in effect during a pilot period to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time (''LULD Plan''), *except as specified in subparagraph (v) below.* Capitalized terms used in this paragraph shall have the same meaning as provided for in the LULD Plan. During a Limit State and Straddle State in the Underlying NMS stock:

(i)–(iii) No change.

(iv) For a one year period following the adoption of this subparagraph (iv), trades are not subject to an obvious error or catastrophic error review pursuant to Chapter V, Sections 6(b) or 6(f). Nothing in this provision shall prevent trades from review on Exchange motion pursuant to Chapter V, Section 6(d)(i).

(e) No change.

* * * * *

A notice of the proposed rule change for publication in the **Federal Register** is attached hereto as *Exhibit 1.*

(b) Not applicable.

(c) Not applicable.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt Chapter V, Section 3(d)(iv) [3] to provide for how BX will treat options orders in response to the Regulation NMS Plan to Address Extraordinary Market Volatility (the ''Plan''), which is applicable to all NMS stocks, as defined in Regulation NMS Rule 600(b)(47). The Exchange proposes to adopt Section 3(d)(iv) for a one year pilot period.[4]

Background

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, *i.e.,* the ''flash crash,'' the equities exchanges and the Financial Industry Regulatory Authority (''FINRA'') have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. The measures adopted include pilot plans for stock-by-stock trading pauses,[5] related changes to the equities market clearly erroneous execution rules,[6] and more stringent equities market maker quoting requirements.[7] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[8] In addition, the Commission approved changes to the equities market-wide circuit breaker rules on a pilot basis to coincide with the pilot period for the Plan.[9]

The Plan is designed to prevent trades in individual NMS stocks from occurring outside of specified Price Bands.[10] As described more fully below, the requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). All trading centers in NMS stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the requirements specified in the Plan.

As set forth in more detail in the Plan, Price Bands consisting of a Lower Price Band and an Upper Price Band for each NMS Stock are calculated by the Processors.[11] When the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band, the Processors shall disseminate such National Best Bid (Offer) with an appropriate flag identifying it as unexecutable. When the National Best Bid (Offer) is equal to the Upper (Lower) Price Band, the Processors shall distribute such National Best Bid (Offer) with an appropriate flag identifying it as a Limit State Quotation.[12] All trading centers in NMS stocks must maintain written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for NMS stocks. Notwithstanding this requirement, the Processor shall display an offer below the Lower Price Band or a bid above the Upper Price Band, but with a flag that it is non-executable. Such bids or offers shall not be included in the National Best Bid or National Best Offer calculations.[13] Trading in an NMS stock immediately enters a Limit State if the National Best Offer (Bid) equals but does not cross the Lower (Upper) Price Band.[14] Trading for an NMS stock exits a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market does not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause pursuant to Section VII of the Plan, which would be applicable to all markets trading the security.[15] In addition, the Plan defines a Straddle State as when the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS stock is not in a Limit State. For example, assume the Lower Price Band for an NMS Stock is $9.50 and the Upper Price Band is $10.50, such NMS stock would be in a Straddle State if the National Best Bid were below $9.50, and therefore unexecutable, and the National Best Offer were above $9.50 (including a National Best Offer that could be above $10.50). If an NMS stock is in a Straddle State and trading in that stock deviates from normal trading characteristics, the Primary Listing Exchange may declare a trading pause for that NMS stock if such Trading Pause would support the Plan's goal to address extraordinary market volatility.

Proposal

The Exchange proposes to adopt new Chapter V, Section 3(d)(iv) to provide that trades are not subject to an obvious error or catastrophic error review pursuant to Chapter V, Section 6(b) or 6(f) during a Limit State or Straddle State.

Currently, under Sections 6(b)(i) and (f)(i), obvious and catastrophic errors are calculated by determining a theoretical price and applying such price, based on objective standards, to ascertain whether the trade should be nullified or adjusted. Trades are adjusted pursuant to an adjustment table that, in effect, assesses an adjustment penalty. By adjusting trades above or below the theoretical price, the rule assesses a ''penalty'' in that the adjustment price is not as favorable as the amount the party making the error would have received had it not made the error.

Pursuant to Section 6(c), the theoretical price of an option is determined in one of two ways: (i) If the series is traded on at least one other options exchange, the mid-point of the

[3] The provisions of Section (d)(i) and (ii) and (e) were filed and became effective on February 28, 2013, with a 30 day operative delay, on a pilot basis. *See* Securities Exchange Act Release No. 69119 (March 12, 2013) (SR–BX–2013–021). Section (d)(iii) was filed as SR–BX–2013–022. *See* Securities Exchange Act Release No. 69068 (March 7, 2013).

[4] The Exchange will conduct its own analysis concerning the elimination of obvious and catastrophic error provisions during Limit States and Straddle States and agrees to provide the Commission with relevant data to assess the impact of this proposed rule change. As part of its analysis, the Exchange will evaluate: (1) The options market quality during Limit States and Straddle States; (2) assess the character of incoming order flow and transactions during Limit States and Straddle States; and (3) review any complaints from members and their customers concerning executions during Limit States and Straddle States. Additionally, the Exchange agrees to provide to the Commission data requested to evaluate the impact of the elimination of the obvious and catastrophic error provisions, including data relevant to assessing the various analyses noted above.

[5] *See e.g.,* BX Rule 4120.

[6] *See e.g.,* BX Rule 4762.

[7] *See e.g.,* NASDAQ Rule 4613.

[8] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving the Plan on a Pilot Basis).

[9] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129).

[10] Unless otherwise specified, capitalized terms used in this proposed rule change are based on the defined terms of the Plan.

[11] *See* Section V(A) of the Plan.

[12] *See* Section VI(A) of the Plan.

[13] *See* Section VI(A)(3) of the Plan.

[14] *See* Section VI(B)(1) of the Plan.

[15] The primary listing market would declare a Trading Pause in an NMS stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS stock could occur during the trading pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

National Best Bid and Offer (''NBBO''), just prior to the transaction; or (ii) If there are no quotes for comparison purposes, as determined by MarketWatch as defined in Chapter I. Recently, the Exchange amended Section 6(c)(i) to change the first method to provide that if the series is traded on at least one other options exchange, the theoretical price is the last National Best Bid price with respect to an erroneous sell transaction and the last National Best Offer price with respect to an erroneous buy transaction, just prior to the transaction.[16]

The Exchange believes that neither of these methods is appropriate during a Limit State or Straddle State. As discussed above, during a Limit State or Straddle State, options prices may deviate substantially from those available prior to or following the State. The Exchange believes the new provision (once operative) would give rise to much uncertainty for market participants as there is no bright line definition of what the theoretical price should be for an option when the underlying NMS stock has an unexecutable bid or offer or both. Determining theoretical price in such a situation would be often times very subjective as opposed to an objective determination giving rise to additional uncertainty and confusion for investors. Accordingly, the Exchange does not believe that the approach which depends on a reliable NBBO in the option is appropriate during a Limit State or Straddle State. While in a Limit State or Straddle State, only limit orders will be accepted by the Exchange, affirming that the participant is willing to accept an execution up to the limit price. Further, because the Exchange system will only trade through the theoretical bid or offer if the Exchange or the participant (via an ISO order) has accessed all better priced interest away in accordance the Options Order Protection and Locked/Crossed Markets Plan, the Exchange believes potential trade reviews of executions that occurred at the participant's limit price and also in compliance with aforementioned Plan could result in uncertainty that could harm liquidity and also could create an advantage to either side of an execution depending on the future movement of the underlying stock.

The Exchange recognizes that the second method (in Section (c)(ii)) affords discretion to Exchange staff in determining the theoretical price and thereby, ultimately, whether a trade is busted or adjusted and to what price. The Exchange has determined that it would be difficult to exercise such discretion in periods of extraordinary market volatility and in particular when the price of the underlying security is unreliable. Moreover, the theoretical price would be subjective. Thus, the Exchange has determined not to permit an obvious or catastrophic error review if there are no quotes for comparison purposes. The Exchange believes that adding certainty to the execution of orders in these situations should encourage market participants to continue to provide liquidity to the Exchange and thus promote a fair and orderly market.

In addition, the Exchange proposes to provide that trades are not subject to an obvious error and catastrophic error review if pursuant to Section 6(b)(ii) the trade resulted from an execution price in a series quoted no bid. A zero bid option refers to an option where the bid price is $0.00. Series of options quoted zero bid are usually deep out-of-the-money series that are perceived as having little if any chance of expiring in-the-money. For this reason, relatively few transactions occur in these series and those that do are usually the result of a momentary pricing error.

Specifically, under this provision, where the trade resulted in an execution price in a series that was, and for five seconds prior to the execution remained, quoted no bid and at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid at the time of the erroneous execution, the trade shall be nullified. For purposes of this provision, bids and offers of the parties to the subject trade that are in any of the series in the same options class shall not be considered. The Exchange believes that these situations are not appropriate for an error review because they are more likely to result in a windfall to one party at the expense of another, in a Limit State or Straddle State, because the criteria for meeting the no-bid provision are more likely to be met in a Limit State or Straddle State, and unlike normal circumstances, may not be a true reflection of the value of the series being quoted. For example, in a series quoted $1.95–$2.00 on multiple exchanges prior to the Limit State or Straddle State, an order to B10@ $2.00 is likely a reasonably priced trade because the buyer attempted to pay $2.00 with a limit price. However, if that series and the series one strike below are both quoted $0.00–$5.00, then both the seller and the buyer at $2.00 would have an opportunity to dispute the trade. This would create uncertainty to both parties and an advantage to one participant if the underlying stock moved significantly in their direction.

Rationale

When NASDAQ OMX PHLX (''PHLX'') Rule 1092 was first adopted, the Commission stated that it ''* * *considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an 'obvious error' may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an 'obvious error' has occurred, and the adjustment or nullification of a transaction because an obvious error is considered to exist, should be based on specific and objective criteria and subject to specific and objective procedures. * * * The Commission believes that Phlx's proposed obvious error rule establishes specific and objective criteria for determining when a trade is an 'obvious error.' Moreover, the Commission believes that the Exchange's proposal establishes specific and objective procedures governing the adjustment or nullification of a trade that resulted from an 'obvious error.' '' [17]

In 2008, PHLX amended Rule 1092 to adopt the catastrophic error provision. In doing so, the Exchange stated that it had ''* * * weighed carefully the need to assure that one market participant is not permitted to receive a windfall at the expense of another market participant that made an Obvious Error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. The Exchange states that, while it believes that the Obvious Error Rule strikes the correct balance in most situations, in some extreme situations, trade participants may not be aware of errors that result in very large losses within the time periods currently required under the rule. In this type of extreme situation, the Exchange believes its members should be given more time to seek relief so that there is a greater opportunity to mitigate very large losses and reduce the corresponding large wind-falls. However, to maintain the appropriate balance, the Exchange believes members should only be given more time when the execution price is

[16] Securities Exchange Act Release No. 69071 (March 3, 2013), 78 FR 16349 (March 14, 2013) (SR–BX–2013–020). It became effective on February 26, 2013 and will become operative 30 days thereafter.

[17] *See* Securities Exchange Act Release No. 49785 (May 28, 2004), 69 FR 32090 (June 8, 2004) (SR–Phlx–2003–68).

much further away from the theoretical price than is required for Obvious Errors so that relief is only provided in extreme circumstances.'' [18]

The Exchange believes that this proposal is consistent with those principles because it strikes the aforementioned balance. The Exchange is proposing to decline to review trades, which is specific and objective. Furthermore, the proposal more fairly balances the potential windfall to one market participant against the potential reconsideration of a trading decision under the guise of an error, and thereby results in more certainty during periods of extreme market volatility.

The Exchange notes that there are additional protections in place outside of the Obvious and Catastrophic Errors Rule, specifically pre-trade protections. First, SEC Rule 15c3–5 requires that, ''financial risk management controls and supervisory procedures must be reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds, or that appear to be erroneous.'' [19] Secondly, the Exchange has price checks applicable to limit orders that reject limit orders that are priced sufficiently far through the NBBO that it seems likely an error occurred. The requirements placed upon broker-dealers to adopt controls to prevent the entry of orders that appear to be erroneous, coupled with Exchange functionality that filters out orders that appear to be erroneous serve to sharply reduce the incidence of errors arising from situations, for example, where participants mistakenly enter an order to pay $20 for an option that is offered at $2. Accordingly, the Exchange believes it is appropriate to eliminate any potential protection applying the obvious or catastrophic error rule might provide during Limit States and Straddle States, as its application may produce inequitable results.

The Exchange may still review transactions in the interest of maintaining a fair and orderly market and for the protection of investors, on its own motion, determine to review trades that are believed to be erroneous that occur during a Limit State or a Straddle State in accordance with Chapter V, Section 6(d)(i). The Exchange believes that this safeguard will provide the flexibility for the Exchange to act when necessary and appropriate to nullify or adjust a transaction, while also providing market participants with certainty that trades they effect with quotes and/or orders having limit prices will stand irrespective of subsequent moves in the underlying security. The right to review on Exchange motion transactions that occur during a Limit State or Straddle State under this provision would also allow the Exchange to account for unforeseen circumstances that result in obvious or catastrophic errors for which a nullification or adjustment may be necessary in order to preserve the interest of maintaining a fair and orderly market and for the protection of investors. The Exchange understands that this provision is specifically limited to maintaining a fair and orderly market for the protection of investors and will administer it in a manner that is consistent with the principles of the Act. The Exchange will create and maintain records relating to the use of the authority to act on its own motion during a Limit State or Straddle State, including when the Exchange received requests to act on its motion and determined not to as well as any complaints related to the Exchange's use of such authority.

Various Exchange staff have, over time, spoken to a number of member organizations about how to treat obvious and catastrophic errors during a Limit State or Straddle State, with no one viewpoint particularly emerging; rather, the Exchange staff has heard a variety of views, mostly focused on having many trades stand, on fairness and fair and orderly markets and on being able to re-address the details during the course of the pilot, if needed.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[20] in general, and with Section 6(b)(5) of the Act,[21] in particular, requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it should provide certainty about how errors involving options orders and trades will be handled during periods of extraordinary volatility in the underlying security. The Exchange further believes that it is necessary and appropriate in the interest of promoting fair and orderly markets to exclude transactions executed during a Limit State or Straddle State from Section 6(b). The Exchange believes the application of the current rule will be impracticable given the lack of a reliable NBBO in the options market during Limit States and Straddle States, and that the resulting actions (*i.e.,* nullified trades or adjusted prices) may not be appropriate given market conditions. This change would ensure that limit orders that are filled during a Limit State or Straddle State would have certainty of execution in a manner that promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system. Moreover, given that options prices during brief Limit States or Straddle States may deviate substantially from those available shortly following the Limit State or Straddle State, the Exchange believes giving market participants time to re-evaluate a transaction would create an unreasonable adverse selection opportunity that would discourage participants from providing liquidity during Limit States or Straddle States. In this respect, the Exchange notes that by rejecting market orders and stop orders, and cancelling pending market orders and stop orders, only those orders with a limit price will be executed during a Limit State or Straddle State. Therefore, on balance, the Exchange believes that removing the potential inequity of nullifying or adjusting executions occurring during Limit States or Straddle States outweighs any potential benefits from applying certain provisions during such unusual market conditions. Additionally, as discussed above, there are additional pre-trade protections in place outside of Section 6 that will continue to safeguard customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the proposal does not impose an intra-market burden on competition, because it will apply to all members. Nor will the proposal impose a burden on competition among the options exchanges, because, in addition

[18] *See* Securities Exchange Act Release No. 58002 (June 23, 2008), 73 FR 36581 (June 27, 2008) (SR–Phlx–2008–42) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Catastrophic Errors).

[19] *See* Securities and Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69791 (November 15, 2010) (S7–03–10).

[20] 15 U.S.C. 78f.

[21] 15 U.S.C. 78f(b)(5).

to the vigorous competition for order flow among the options exchanges, the proposal addresses a regulatory situation common to all options exchanges. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct order flow to competing venues. The Exchange believes this proposal will not impose a burden on competition and will help provide certainty during periods of extraordinary volatility in an NMS stock.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (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–BX–2013–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2013–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2013–026 and should be submitted on or before April 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06396 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69136; File No. SR–MIAX–2013–06]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To List and Trade Option Contracts Overlying 10 Shares of Certain Securities

March 14, 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 March 4, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 404 to list and trade option contracts overlying 10 shares of a security (''mini-option contracts'').

The text of the proposed rule change is provided in *Exhibit 5.* The text of the proposed rule change is also available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend MIAX rules to enable the listing and trading of option contracts overlying 10 shares of a security (''mini-option contracts''). This is a competitive filing based on filings submitted by NYSE Arca, Inc. (''NYSE Arca''), International Securities Exchange, LLC (''ISE''), and Chicago Board of Options Exchange, Inc. (''CBOE'') which the Commission recently approved.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (Notice of Filing of Amendments No. 1 and Order Granting Accelerated Approval of Proposed Rule Changes as Modified by Amendments No. 1 to List and Trade Option Contracts Overlying 10 Shares of Certain Securities) (SR–NYSEArca–2012–64 and SR–ISE–2012–58). *See also* Securities Exchange Act Release No. 68656 (January 15, 2013) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to List and Trade Option

Continued

Pursuant to MIAX Rule 404, the Exchange currently lists and trades standardized option contracts on a number of equities, and soon will add exchange-traded fund shares (''ETFs''), each with a unit of trading of 100 shares. The purpose of this proposed rule change is to expand investors' choices by listing and trading option contracts on a select number of high-priced and actively traded securities, each with a unit of trading ten times lower than that of standard-sized option contracts, or 10 shares. Specifically, the Exchange proposes to list and trade mini-options overlying five (5) high-priced securities for which the standard contract overlying the same security has significant liquidity.[4] The Exchange believes that mini-options will appeal to retail investors who may not currently be able to participate in the trading of options on such high priced securities. The Exchange believes that investors would benefit from the availability of mini-options contracts by making options overlying high priced securities more readily available as an investing tool and at more affordable and realistic prices, most notably for the average retail investor.

For example, with AAPL trading at $638.17 on October 8, 2012, ($63,817 for 100 shares underlying a standard contract), the call option with a strike price of 640 expiring on October 19 was trading at $8.30. The cost of the standard contract overlying 100 shares would be $830, which is substantially higher in notional terms than the average equity option price of $255.02.[5] Proportionately equivalent mini-options contracts on AAPL would provide investors with the ability to manage and hedge their portfolio risk on their underlying investment, at a price of $83.00 per contract. In addition, investors who hold a position in AAPL at less than the round lot size would still be able to avail themselves of options to manage their portfolio risk. For example, the holder of 50 shares of AAPL could write covered calls for five mini-options contracts. The table below demonstrates the proposed differences between a mini-options contract and a standard contract with a strike price of $125 per share and a bid or offer of $3.20 per share:

	Standard	Mini
Share Deliverable Upon Exercise.	100 shares	10 shares.
Strike Price	125	125.
Bid/offer	3.20	3.20.
Premium Multiplier	$100	$10.
Total Value of Deliverable.	$12,500	$1,250.
Total Value of Contract.	$320	$32.

The Exchange believes that the proposal to list and trade mini-option contracts will not lead to investor confusion. There are two important distinctions between mini-options and standard options that are designed to ease the likelihood of any investor confusion. First, the premium multiplier for the proposed mini-options will be $10, rather than $100, to reflect the smaller unit of trading. To reflect this change, the Exchange proposes to add Rule 509(c) which notes that bids and offers for an option contract overlying 10 shares will be expressed in terms of dollars per 1/10th part of the total value of the contract. Thus, an offer of ''.50'' shall represent an offer $5.00 for an option contract having a unit of trading consisting of 10 shares. Additionally, the Exchange will designate mini-option contracts with different trading symbols than their related standard contract.[6] The Exchange believes that the clarity of this approach is appropriate and transparent and the Exchange believes that the terms of mini-option contracts are consistent with the terms of the Options Disclosure Document. The Exchange recognizes the need to differentiate mini-option contracts from standard options and therefore is proposing the following changes to its rules.

The Exchange proposes to add new Interpretation and Policy .08(a) to Rule 404 (Series of Option Contracts Open for Trading) to permit the listing of mini-options after an option class on a stock, ETF share, Trust Issued Receipt (TIR), and Equity Index-Linked Security with a 100 share deliverable has been approved for listing and trading on the Exchange. This new subparagraph also identifies the five specific securities on which the Exchange may list mini-options.

The Exchange proposes to add new Interpretation and Policy .08(b) to Rule 404 to reflect that strike prices for mini-options shall be set at the same level as for standard options. For example, a call series strike price to deliver 10 shares of stock at $125 per share has a total deliverable value of $1250, and the strike price will be set at 125. Further, pursuant to proposed new Interpretation and Policy .08(c) to Rule 404, the Exchange proposes to not permit the listing of additional series of mini-options if the underlying is trading at $90 or less to limit the number of strikes once the underlying is no longer a high priced security. The Exchange proposes a $90.01 minimum for continued qualification so that additional series of mini-options that correspond to standard strikes may be added even though the underlying has fallen slightly below the initial qualification standard. In addition, the underlying security must be trading above $90 for five consecutive days before the listing of mini-option contracts in a new expiration month. This restriction will allow the Exchange to list strikes in mini-options without disruption when a new expiration month is added even if the underlying has had a minor decline in price.

The Exchange also proposes to add Interpretation and Policy .03 to Rule 307 (Position Limits) to reflect that, for purposes of compliance with the position limits set forth in Rule 307, ten mini-option contracts will equal one standard contract overlying 100 shares. The Exchange also proposes to add subparagraph (c) to Rule 509 (Meaning of Premium Bids and Offers) to extend the explanation of bids and offers with respect to mini-option contracts.

Mini-options with non-standard expiration dates (*e.g.,* weekly series, quarterly option series and LEAPs) will be permitted under this proposal and in accordance with relevant MIAX rules. MIAX may list mini-options on SPY, AAPL, GLD, GOOG and AMZN for all expirations applicable to 100-share options on the same underlying.[7]

The Exchange's rules that apply to the trading of standard options would apply to mini-options and the Exchange's market maker quoting obligations would apply to mini-options.[8] Intermarket trade-through protection would apply to mini-options; however, price protection would not apply across standard and mini-options on an intramarket basis, as these are separate products.[9]

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and

Contracts Overlying 10 Shares of Certain Securities) (SR–CBOE–2013–001) 78 FR 4526 (January 22, 2013).

[4] The Exchange proposes to list Mini Options on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN''). The Exchange notes that any expansion of the program would require that a subsequent proposed rule change be submitted to the Commission.

[5] Year-to-date through September 28, 2012. A high priced underlying security may have relatively expensive options, because a low percentage move in the share price may mean a large movement in the options in terms of absolute dollars.

[6] The Options Clearing Corporation (''OCC'') symbology is structured for contracts with other than 100 shares to be designated with a numerical suffix to the standard trading symbol, *e.g.,* AAPL8.

[7] *See* 77 FR at 60737.

[8] *See* MIAX Rule 604 and 77 FR at 60737 [sic].

[9] *See* 77 FR at 60736 and 60738.

represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of mini-option contracts. MIAX also understand that the OCC will be able to accommodate mini-option contracts.

The Exchange notes that the current MIAX Fee Schedule will not apply to the trading of mini-option contracts. The Exchange will not commence trading of mini-option contracts until specific fees for mini-option contracts trading have been filed with the Commission.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Section 6(b)(5) of the Act [11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. Specifically, the Exchange believes that investors would benefit from the availability of mini-options contracts by, making options on high priced securities more readily available as an investing tool and at more affordable and realistic prices, most notably for the average retail investor. As described above, the proposal contains a number of features designed to protect investors by reducing investor confusion, such as the mini-option contracts being designated by different trading symbols from their related standard contracts. Moreover, the proposal is designed to protect investors and the public interest by providing investors with an enhanced tool to reduce risk in high priced securities. In particular, the proposed contracts will provide retail customers who invest in high priced issues in lots of less than 100 shares with a means of protecting their investments that is presently only available to those who have positions of 100 shares or more. Further, the proposal currently is limited to five high priced securities for which there is already significant options liquidity, and therefore significant customer demand and trading volume.

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. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to recently approved NYSE Arca, ISE and CBOE filings. MIAX believes this proposed rule change is necessary to permit fair competition among the options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that it can list and trade the proposed mini-options contracts as soon as it is able.[14] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] The Commission notes the proposal is substantively identical to proposals that were recently approved by the Commission, and does not raise any new regulatory issues.[16] For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2013–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2013–06. 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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[14] The Commission notes that the Exchange's current Fee Schedule will not apply to the trading of mini-option contracts, and the Exchange will not commence trading of mini-option contracts until specific fees for mini-option contracts trading have been filed with the Commission.

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] *See* Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR–NYSEArca–2012–64 and SR–ISE–2012–58).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2013–06 and should be submitted on or before April 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06393 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69141; File No. SR–Phlx–2013–29]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change To Address Obvious and Catastrophic Options Errors in Response to the Regulation NMS Plan To Address Extraordinary Market Volatility

March 15, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 14, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new Exchange Rule 1047(f)(v) to provide for how the Exchange proposes to treat obvious and catastrophic options errors in response to the Regulation NMS Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is below; proposed new language is in italics.

* * * * *

Rule 1047. Trading Rotations, Halts and Suspensions

(a)–(e) No change.

(f) This paragraph shall be in effect during a pilot period to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time (''LULD Plan''), *except as specified in subparagraph (v) below.* Capitalized terms used in this paragraph shall have the same meaning as provided for in the LULD Plan. During a Limit State and Straddle State in the Underlying NMS stock:

(i)–(iv) No change.

(v) For a one year period following the adoption of this subparagraph (v), electronic trades are not subject to an obvious error or catastrophic error review pursuant to Rule 1092(a)(i) or (ii) nor are they subject to nullification or adjustment pursuant to Rule 1092(c)(ii)(E) or (F). Nothing in this provision shall prevent electronic trades from review on Exchange motion pursuant to Rule 1092(e)(i)(B).

(g) No change.

* * * Commentary:

.01–.03 No change.

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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 adopt Exchange Rule 1047(f)(v)[4] to provide for how the Exchange will treat options obvious and catastrophic options errors in response to the Regulation NMS Plan to Address Extraordinary Market Volatility (the ''Plan''), which is applicable to all NMS stocks, as defined in Regulation NMS Rule 600(b)(47). The Exchange proposes to adopt new Rule 1047(f)(v) for a one year pilot period.[5]

Background

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, i.e., the ''flash crash,'' the equities exchanges and the Financial Industry Regulatory Authority (''FINRA'') have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. Among the measures adopted include pilot plans for stock-by-stock trading pauses,[6] related changes to the equities market clearly erroneous execution rules,[7] and more stringent equities market maker quoting requirements.[8] On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis.[9] In addition, the Commission approved changes to the equities market-wide circuit breaker

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The provisions of Rule 1047(f)(i)–(iii) and (g) were filed and became effective on February 28, 2013, with a 30 day operative delay, on a pilot basis. *See* Securities Exchange Act Release No. 69118 (March 12, 2013) (SR–Phlx–2013–20). Rule 1047(f)(iv) was filed as SR–Phlx–2013–21. *See* Securities Exchange Act Release No. 69068 (March 7, 2013).

[5] The Exchange will conduct its own analysis concerning the elimination of obvious and catastrophic error provisions during Limit States and Straddle States and agrees to provide the Commission with relevant data to assess the impact of this proposed rule change. As part of its analysis, the Exchange will evaluate: (1) The options market quality during Limit States and Straddle States; (2) assess the character of incoming order flow and transactions during Limit States and Straddle States; and (3) review any complaints from members and their customers concerning executions during Limit States and Straddle States. Additionally, the Exchange agrees to provide to the Commission data requested to evaluate the impact of the elimination of the obvious and catastrophic error provisions, including data relevant to assessing the various analyses noted above.

[6] *See e.g.,* Exchange Rule 3100.

[7] *See e.g.,* Exchange Rule 3312.

[8] *See e.g.,* NASDAQ Rule 4613.

[9] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving the Plan on a Pilot Basis).

rules on a pilot basis to coincide with the pilot period for the Plan.[10]

The Plan is designed to prevent trades in individual NMS stocks from occurring outside of specified Price Bands.[11] As described more fully below, the requirements of the Plan are coupled with Trading Pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). All trading centers in NMS stocks, including both those operated by Participants and those operated by members of Participants, are required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the requirements specified in the Plan.

As set forth in more detail in the Plan, Price Bands consisting of a Lower Price Band and an Upper Price Band for each NMS Stock are calculated by the Processors.[12] When the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band, the Processors shall disseminate such National Best Bid (Offer) with an appropriate flag identifying it as unexecutable. When the National Best Bid (Offer) is equal to the Upper (Lower) Price Band, the Processors shall distribute such National Best Bid (Offer) with an appropriate flag identifying it as a Limit State Quotation.[13] All trading centers in NMS stocks must maintain written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for NMS stocks. Notwithstanding this requirement, the Processor shall display an offer below the Lower Price Band or a bid above the Upper Price Band, but with a flag that it is non-executable. Such bids or offers shall not be included in the National Best Bid or National Best Offer calculations.[14] Trading in an NMS stock immediately enters a Limit State if the National Best Offer (Bid) equals but does not cross the Lower (Upper) Price Band.[15] Trading for an NMS stock exits a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market does not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause pursuant to Section VII of the Plan, which would be applicable to all markets trading the security.[16] In addition, the Plan defines a Straddle State as when the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS stock is not in a Limit State. For example, assume the Lower Price Band for an NMS Stock is $9.50 and the Upper Price Band is $10.50, such NMS stock would be in a Straddle State if the National Best Bid were below $9.50, and therefore unexecutable, and the National Best Offer were above $9.50 (including a National Best Offer that could be above $10.50). If an NMS stock is in a Straddle State and trading in that stock deviates from normal trading characteristics, the Primary Listing Exchange may declare a trading pause for that NMS stock if such Trading Pause would support the Plan's goal to address extraordinary market volatility.

Proposal

The Exchange proposes to adopt new subparagraph (f)(v) to provide that trades are not subject to an obvious error or catastrophic error review pursuant to Rule 1092(a)(i) or (ii) during a Limit State or Straddle State. Thus, pursuant to Rule 1092(c)(ii)(F), relating back to Rule 1092(a), such trade could not be nullified or adjusted.

Pursuant to Rule 1092(c)(ii)(E), if the trade resulted in an execution price in a series quoted no bid during a Limit State or Straddle State, such trade could not be nullified or adjusted.

Nevertheless, trades will continue to be subject to an obvious error or catastrophic error review in a Limit State or Straddle State if:

(A) The trade resulted from a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g. a quote/order that is frozen, because of an Exchange system error, and repeatedly traded) in which case trades in excess of the disseminated size may be nullified;[17]

(B) The trade resulted from a verifiable disruption or malfunction of an Exchange dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible where there is Exchange documentation providing that the member sought to update or cancel the quote/order;[18]

(C) The trade resulted from an erroneous print disseminated by the underlying market which is later cancelled or corrected by the underlying market where such erroneous print resulted in a trade higher or lower than the average trade in the underlying security during the time period encompassing two minutes before and after the erroneous print, by an amount at least five times greater than the average quote width for such underlying security during the time period encompassing two minutes before and after the erroneous print. For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question);[19] or

(D) The trade resulted from an erroneous quote in the Primary Market for the underlying security that has a width of at least $1.00 and that width is at least five times greater than the average quote width for such underlying security during the time period encompassing two minutes before and after the dissemination of such quote. For the purposes of this Rule, the average quote width shall be determined by adding the quote widths of sample quotations at regular 15-second intervals during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).[20]

Currently, under Rule 1092(a)(i) and (ii), obvious and catastrophic errors are calculated by determining a theoretical price and applying such price, based on objective standards, to ascertain whether the trade should be nullified or adjusted. While the rule contains a notification process for requesting an obvious error review, certain more substantial errors may fall under the category of a catastrophic error, for which a longer time period is permitted to request a review and for which trades can currently only be adjusted (not

[10] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129).

[11] Unless otherwise specified, capitalized terms used in this rule filing are based on the defined terms of the Plan.

[12] *See* Section V(A) of the Plan.

[13] *See* Section VI(A) of the Plan.

[14] *See* Section VI(A)(3) of the Plan.

[15] *See* Section VI(B)(1) of the Plan.

[16] The primary listing market would declare a Trading Pause in an NMS stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS stock could occur during the trading pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

[17] *See* Rule 1092(c)(ii)(A).

[18] *See* Rule 1092(c)(ii)(B).

[19] *See* Rule 1092(c)(ii)(C).

[20] *See* Rule 1092(c)(ii)(D).

nullified).[21] Trades are adjusted pursuant to an adjustment table that, in effect, assesses an adjustment penalty. By adjusting trades above or below the theoretical price, the Rule assesses a ''penalty'' in that the adjustment price is not as favorable as the amount the party making the error would have received had it not made the error.

Pursuant to Rule 1092(a)(i) and (ii), obvious and catastrophic errors are determined by comparing the theoretical price of the option, calculated by one of the methods in Rule 1092(b), to an adjustment table in Rule 1092(a). The Exchange has determined not to permit obvious and catastrophic errors reviews under Rule 1092(a) when a trade occurred during a Limit State or Straddle State.

Pursuant to Rule 1092(b), the theoretical price of an option is determined in one of three ways: (i) If the series is traded on at least one other options exchange, the last National Best Bid price with respect to an erroneous sell transaction and the last National Best Offer price with respect to an erroneous buy transaction, just prior to the trade; (ii) if there are no quotes for comparison purposes, or if the bid/ask differential of the National Best Bid and Offer (''NBBO'') for the affected series, just prior to the erroneous transaction, was at least two times the permitted bid/ask differential under Rule 1014(c)(i)(A)(1)(a), as determined by an Options Exchange Official; or (iii) for transactions occurring as part of the Exchange's automated opening system, the theoretical price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

The Exchange believes that none of these three methods is appropriate during a Limit State or Straddle State. Specifically, under Rule 1092(b)(i), the theoretical price is determined with respect to the NBBO for an option series just prior to the trade. As discussed above, during a Limit State or Straddle State, options prices may deviate substantially from those available prior to or following the State. The Exchange believes this provision would give rise to much uncertainty for market participants as there is no bright line definition of what the theoretical price should be for an option when the underlying NMS stock has an unexecutable bid or offer or both. Determining theoretical price in such a situation would be often times very subjective as opposed to an objective determination giving rise to additional uncertainty and confusion for investors. Accordingly, the Exchange does not believe that the approach employed under Rule 1092(b)(i), which by definition depends on a reliable NBBO in the option, is appropriate during a Limit State or Straddle State. The Exchange believes that this is appropriate because while in a Limit State or Straddle State, only limit orders will be accepted by the Exchange, affirming that the participant is willing to accept an execution up to the limit price. Further, because the Exchange system will only trade through the theoretical bid or offer if the Exchange or the participant (via an ISO order) has accessed all better priced interest away in accordance the Options Order Protection and Locked/Crossed Markets Plan, the Exchange believes potential trade reviews of executions that occurred at the participant's limit price and also in compliance with aforementioned Plan could result in uncertainty that could harm liquidity and also could create an advantage to either side of an execution depending on the future movement of the underlying stock.

The Exchange recognizes that the second method (in Rule 1092(b)(ii)) affords discretion to the Options Exchange Official in determining the theoretical price and thereby, ultimately, whether a trade is busted or adjusted and to what price. The Exchange has determined that it would be difficult to exercise such discretion in periods of extraordinary market volatility and in particular when the price of the underlying security is unreliable. Moreover, the theoretical price would be subjective. Thus, the Exchange has determined not to permit an obvious or catastrophic error review if there are no quotes for comparison purposes, or if the bid/ask differential of the NBBO for the affected series, just prior to the erroneous transaction, was at least two times the permitted bid/ask differential. The Exchange believes that adding certainty to the execution of orders in these situations should encourage market participants to continue to provide liquidity to the Exchange and thus promote a fair and orderly market.

The Exchange notes that Rule 1092(b)(iii) applies to trades executed during openings. Because the Exchange does not intend to open an option during a Limit State or Straddle State, this provision, on its face, will not apply.

For the same reasons, the Exchange is proposing that Rule 1092(c)(ii)(F) not apply during a Limit State or Straddle State.

In addition, the Exchange proposes to provide that trades are not subject to an obvious error and catastrophic error review if pursuant to Rule 1092(c)(ii)(E) the trade resulted from an execution price in a series quoted no bid. A zero bid option refers to an option where the bid price is $0.00. Series of options quoted zero bid are usually deep out-of-the-money series that are perceived as having little if any chance of expiring in-the-money. For this reason, relatively few transactions occur in these series and those that do are usually the result of a momentary pricing error.

Specifically, under this provision, where the trade resulted in an execution price in a series quoted no bid and for 5 seconds prior to the execution remained no bid (excluding the quote in question; bids and offers of the parties to the subject trade that are in any of the series in the same options class shall not be considered) *and* at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid at the time of the erroneous execution (in which case the trade shall be nullified). The Exchange believes that these situations are not appropriate for an error review because they are more likely to result in a windfall to one party at the expense of another, in a Limit State or Straddle State, because the criteria for meeting the no-bid provision are more likely to be met in a Limit State or Straddle State, and unlike normal circumstances, may not be a true reflection of the value of the series being quoted. For example, in a series quoted $1.95–$2.00 on multiple exchanges prior to the Limit State or Straddle State, an order to B10@ $2.00 is likely a reasonably priced trade because the buyer attempted to pay $2.00 with a limit price. However, if that series and the series one strike below are both quoted $0.00–$5.00, then both the seller and the buyer at $2.00 would have an opportunity to dispute the trade. This would create uncertainty to both parties and an advantage to one participant if the underlying stock moved significantly in their direction.

Rationale

When Rule 1092 was first adopted, the Commission stated that it ''* * * considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an 'obvious error' may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the

[21] *But see* Securities Exchange Act Release No. 68907 (February 12, 2013), 78 FR 11705 (February 19, 2013) (SR–Phlx–2013–05).

Commission's view, the determination of whether an 'obvious error' has occurred, and the adjustment or nullification of a transaction because an obvious error is considered to exist, should be based on specific and objective criteria and subject to specific and objective procedures * * * The Commission believes that Phlx's proposed obvious error rule establishes specific and objective criteria for determining when a trade is an 'obvious error.' Moreover, the Commission believes that the Exchange's proposal establishes specific and objective procedures governing the adjustment or nullification of a trade that resulted from an 'obvious error.' [22]

In 2008, the Exchange amended Rule 1092 to adopt the catastrophic error provision. In doing so, the Exchange stated that it had ''* * * weighed carefully the need to assure that one market participant is not permitted to receive a windfall at the expense of another market participant that made an Obvious Error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. The Exchange states that, while it believes that the Obvious Error Rule strikes the correct balance in most situations, in some extreme situations, trade participants may not be aware of errors that result in very large losses within the time periods currently required under the rule. In this type of extreme situation, the Exchange believes its members should be given more time to seek relief so that there is a greater opportunity to mitigate very large losses and reduce the corresponding large wind-falls. However, to maintain the appropriate balance, the Exchange believes members should only be given more time when the execution price is much further away from the theoretical price than is required for Obvious Errors so that relief is only provided in extreme circumstances.'' [23]

The Exchange believes that this proposal is consistent with those principles because it strikes the aforementioned balance. The Exchange is proposing to decline to review certain trades, which is specific and objective. Furthermore, the proposal more fairly balances the potential windfall to one market participant against the potential reconsideration of a trading decision under the guise of an error, and thereby results in more certainty during periods of extreme market volatility. Trades can nevertheless be considered erroneous under other sections of the Rule, because those continue to be an objective method of determining whether an error occurred, even during periods of extraordinary market volatility. Because the Exchange intends to continue to review trades pursuant to Rule 1092(c)(ii)(A)–(D), the Exchange believes that this continues to provide some protection to market participants.

The Exchange notes that there are additional protections in place outside of the Obvious Errors and Catastrophic Errors Rule, specifically pre-trade protections. First, SEC Rule 15c3–5 requires that, ''financial risk management controls and supervisory procedures must be reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds, or that appear to be erroneous.'' [24] Secondly, the Exchange has price checks applicable to limit orders that rejects limit orders that are priced sufficiently far through the NBBO that it seems likely an error occurred. The requirements placed upon broker-dealers to adopt controls to prevent the entry of orders that appear to be erroneous, coupled with Exchange functionality that filters out orders that appear to be erroneous serve to sharply reduce the incidence of errors arising from situations, for example, where participants mistakenly enter an order to pay $20 for an option that is offered at $2. Accordingly, the Exchange believes it is appropriate to eliminate any potential protection applying the obvious or catastrophic error rule might provide during Limit States and Straddle States, as its application may produce inequitable results.

The Exchange may still review transactions in the interest of maintaining a fair and orderly market and for the protection of investors, on its own motion, determine to review any electronic transaction occurring on the Exchange that is believed to be erroneous that occurs during a Limit State or a Straddle State in accordance with Rule 1092(e)(i)(B). The Exchange believes that this safeguard will provide the flexibility for the Exchange to act when necessary and appropriate to nullify or adjust a transaction, while also providing market participants with certainty that trades they effect with quotes and/or orders having limit prices will stand irrespective of subsequent moves in the underlying security. The right to review on Exchange motion electronic transactions that occur during a Limit State or Straddle State under this provision would also allow the Exchange to account for unforeseen circumstances that result in obvious or catastrophic errors for which a nullification or adjustment may be necessary in order to preserve the interest of maintaining a fair and orderly market and for the protection of investors. The Exchange understands that this provision is specifically limited to [sic] and will administer it in a manner that is consistent with the principles of the Act. The Exchange will create and maintain records relating to the use of the authority to act on its own motion during a Limit State or Straddle State, including when the Exchange received requests to act on its motion and determined not to as well as any complaints related to the Exchange's use of such authority.

Various Exchange staff have, over time, spoken to a number of member organizations about how to treat obvious and catastrophic errors during a Limit State or Straddle State, with no one viewpoint particularly emerging; rather, the Exchange staff has heard a variety of views, mostly focused on having many trades stand, on fairness and fair and orderly markets and on being able to re-address the details during the course of the pilot, if needed.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[25] in general and with Section 6(b)(5) of the Act,[26] in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it should provide certainty about how errors involving options orders and trades will be handled during periods of extraordinary volatility in the underlying security. The Exchange further believes that it is necessary and appropriate in the interest of promoting fair and orderly markets to exclude transactions

[22] *See* Securities Exchange Act Release No. 49785 (May 28, 2004), 69 FR 32090 (June 8, 2004) (SR–Phlx–2003–68).

[23] *See* Securities Exchange Act Release No. 58002 (June 23, 2008), 73 FR 36581 (June 27, 2008) (SR–Phlx–2008–42)(Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Catastrophic Errors).

[24] *See* Securities and Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69791 (November 15, 2010) (S7–03–10).

[25] 15 U.S.C. 78f.

[26] 15 U.S.C. 78f(b)(5).

executed during a Limit State or Straddle State from certain aspects of Rule 1092. The Exchange believes the application of the current rule will be impracticable given the lack of a reliable NBBO in the options market during Limit States and Straddle States, and that the resulting actions (i.e., nullified trades or adjusted prices) may not be appropriate given market conditions. This change would ensure that limit orders that are filled during a Limit State or Straddle State would have certainty of execution in a manner that promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and a national market system. Moreover, given that options prices during brief Limit States or Straddle States may deviate substantially from those available shortly following the Limit State or Straddle State, the Exchange believes giving market participants time to re-evaluate a transaction would create an unreasonable adverse selection opportunity that would discourage participants from providing liquidity during Limit States or Straddle States. In this respect, the Exchange notes that by rejecting market orders and stop orders, and cancelling pending market orders and stop orders, only those orders with a limit price will be executed during a Limit State or Straddle State. Therefore, on balance, the Exchange believes that removing the potential inequity of nullifying or adjusting executions occurring during Limit States or Straddle States outweighs any potential benefits from applying certain provisions during such unusual market conditions. Additionally, as discussed above, there are additional pre-trade protections in place both within and outside of Rule 1092 that will continue to safeguard customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the proposal does not impose an intra-market burden on competition, because it will apply to all members. Nor will the proposal impose a burden on competition among the options exchanges, because, in addition to the vigorous competition for order flow among the options exchanges, the proposal addresses a regulatory situation common to all options exchanges. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct order flow to competing venues. The Exchange believes this proposal will not impose a burden on competition and will help provide certainty during periods of extraordinary volatility in an NMS stock.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (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–Phlx–2013–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–29. 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–29 and should be submitted on or before April 4, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06392 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69139; File No. SR–ISE–2013–19]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees

March 15, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2013, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''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

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its Schedule of Fees. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently assesses per contract transaction fees and provides rebates to market participants that add or remove liquidity from the Exchange (''maker/taker fees and rebates'') in 229 options classes (the ''Select Symbols'').[3] The Exchange's maker/taker fees and rebates are applicable to regular and complex orders executed in the Select Symbols. The Exchange also currently assesses maker/taker fees and rebates for complex orders in symbols that are in the Penny Pilot program but are not a Select Symbol (''Non-Select Penny Pilot Symbols'')[4] and in all symbols that are not in the Penny Pilot Program (''Non-Penny Pilot Symbols'').[5]

The purpose of this proposed rule change is to make three changes to the Exchange's Schedule of Fees. First, the Exchange proposes to amend the list of Select Symbols. Second, the Exchange proposes to amend rebate tiers applicable to Priority Customer[6] complex orders in the Select Symbols that trade with non-Priority Customer complex orders in the complex order book. Third, the Exchange proposes to adopt a new rebate payable to incremental Priority Customer complex orders above the highest tier currently in place. This rebate is applicable to Priority Customer complex orders in the Select Symbols, in SPY and in the Non-Select Symbols that trade with non-Priority Customer complex orders in the complex order book.

1. Select Symbols

The Exchange proposes to amend the list of Select Symbols. All Select Symbols that are currently subject to the Exchange's maker/taker fees and rebates are in the Penny Pilot Program. With this proposed rule change, the Exchange proposes to add the following 125 symbols listed on ISE that are in the Penny Pilot Program but are not currently Select Symbols to the list of Select Symbols: Agilent Technologies, Inc. (''A''), Abbott Labs (''ABT''), Archer Daniels Midland Co. (''ADM''), Autodesk, Inc. (''ADSK''), Agnico Eagle Mines Ltd. (''AEM''), Aflac, Inc. (''AFL''), Assured Guaranty LTD. (''AGO''), Allstate Corporation (''ALL''), Amedisys, Inc. (''AMED''), Abercrombie & Fitch Co. (''ANF''), Apollo Group, Inc. (''APOL''), Activision Blizzard, Inc. (''ATVI''), Bed bath [sic] & Beyond, Inc. (''BBBY''), Banco Bradesco (''BBD''), BB&T Corp. (''BBT''), Biocryst Pharmaceuticals, Inc. (''BCRX''), Baker Hughes, Inc. (''BHI''), BHP Billition Ltd. (''BHP''), Bank of New York Mellon Corp. (''BK''), Popular, Inc. (''BPOP''), Berkshire Hathaway, Class B (''BRKB''), Blackstone Group L.P. (''BX''), Chubb Corp. (''CB''), Century Aluminum Co. (''CENX''), Cigna Corp. (''CI''), Ciena Corporation (''CIEN''), CIT Group, Inc. (''CIT''), Colgate Palmolive Co. (''CL''), Comerica, Inc. (''CMA''), Consol Energy, Inc. (''CNX''), Capital One Financial Corp. (''COF''), CVS Caremark Corporation (''CVS''), CEMEX S.A.B. de C.V. (''CX''), DR Horton, Inc. (''DHI''), Diamond Offshore Drilling (''DO''), Dryships, Inc. (''DRYS''), DIRECTV (''DTV''), Devon Energy Corp. (''DVN''), EMC Corp. (''EMC''), EOG Resources, Inc. (''EOG''), ITT Educational Services, Inc. (''ESI''), E*Trade Financial Corp. (''ETFC''), iShares MSCI Mexico Investable Market (''EWW''), F5 Networks, Inc. (''FFIV''), Flextronics International Ltd. (''FLEX''), Foster Wheeler AG (''FWLT''), Currency Shares Euro (''FXE''), Proshares Ultrashort FTSE China 25 (''FXP''), Gold Fields Ltd. (''GFI''), General Growth Properties, Inc. (''GGP''), Gilead Science, Inc. (''GILD''), Gamestop Corp. (''GME''), HSBC Holdings PLC (''HBC''), Hess Corporation (''HES''), Hartford Financial Services Group, Inc. (''HIG''), Hecla Mining Company (''HL''), Harley—Davidson, Inc. (''HOG''), ICICI Bank Ltd. (''IBN''), international [sic] Paper Co. (''IP''), Intermune, Inc. (''ITMN''), Johnson and Johnson (''JNJ''), Nordstrom, Inc. (''JWN''), Kinder Morgan, Inc. (''KMI''), Kinder Morgan Energy LP (''KMP''), SPDR S&P Regional Banking ETF (''KRE''), LDK Solar Co., Ltd. (''LDK''), Leap Wireless International, Inc. (''LEAP''), Lincoln National Corporation (''LNC''), Lorillard, Inc. (''LO''), Moody's Corporation (''MCO''), Mondelez International (''MDLZ''), Medivation, Inc. (''MDVN''), Mead Johnson Nutrition Co. (''MJN''), 3M Company (''MMM''), Mannkind Corporation (''MNKD''), Mini Nasdaq 100 Index (''MNX''), Marvell Technology Group Ltd. (''MRVL''), ArcelorMittal (''MT''), MGIC Investment Corporation (''MTG''), Myland, Inc. (''MYL''), National Oilwell varco [sic], Inc. (''NOV''), NetApp, Inc. (''NTAP''), Nucor Corp. (''NUE''), NYSE Euronext (''NYX''), Plum Creek Timber Co., Inc. REIT (''PCL''), PNC Financial Services, Inc. (''PNC''), Prudential Financial, Inc. (''PRU''), Royal Caribbean Cruises Ltd. (''RCL''), Raytheon Company (''RTN''), Riverbed Technology (''RVBD''), Origin Agritech Ltd. (''SEED''), Proshares Ultrashort Financials (''SKF''), SLM Corp. (''SLM''), Southern Company (''SO''), Simon Property Group, Inc. (''SPG''), Sunpower Corporation (''SPWR''), Sequenom, Inc. (''SQNM''), Proshares Ultrashort Real Estate (''SRS''), STEC Inc. (''STEC''), Suntrust Banks, Inc. (''STI''), State Street Corp.

[3] Select Symbols are identified by their ticker symbol on the Exchange's Schedule of Fees. With this proposed rule change, the Exchange will no longer identify Select Symbols by their ticker symbol and will, instead, identify Select Symbols as options overlying all symbols listed on ISE that are in the Penny Pilot Program. The Exchange will also provide a link to ISE's public Web site where a current list of ISE-listed symbols that are in the Penny Pilot Program is made available.

[4] *See* Exchange Act Release Nos. 65724 (November 10, 2011), 76 FR 71413 (November 17, 2011) (SR–ISE–2011–72); 66597 (March 14, 2012), 77 FR 16295 (March 20, 2012) (SR–ISE–2012–17); 66961 (May 10, 2012), 77 FR 28914 (May 16, 2012) (SR–ISE–2012–38); 67628 (August 9, 2012), 77 FR 49049 (August 15, 2012) (SR–ISE–2012–71); 68034 (October 11, 2012), 77 FR 63911 (October 17, 2012) (SR–ISE–2012–85); and 68627 (January 11, 2013) 78 FR 3934 (January 17, 2013) (SR–ISE–2013–01).

[5] *See* Exchange Act Release Nos. 66084 (January 3, 2012), 77 FR 1103 (January 9, 2012) (SR–ISE–2011–84); 66392 (February 14, 2012), 77 FR 10016 (February 21, 2012) (SR–ISE–2012–06); 66962 (May 10, 2012), 77 FR 28917 (May 16, 2012) (SR–ISE–2012–35); 67400 (July 11, 2012), 77 FR 42036 (July 17, 2012) (SR–ISE–2012–63); 67628 (August 9, 2012), 77 FR 49049 (August 15, 2012) (SR–ISE–2012–71); 68034 (October 11, 2012), 77 FR 63911 (October 17, 2012) (SR–ISE–2012–85); and 68627 (January 11, 2013) 78 FR 3934 (January 17, 2013) (SR–ISE–2013–01).

[6] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

(''STT''), Suncor Energy, Inc. (''SU''), Southwestern Energy Co. (''SWN''), Symantec Corp. (''SYMC''), Target Corp. (''TGT''), Tiffany & Co. (''TIF''), Toyota Motor Corp. (''TM''), Time Warner, Inc. (''TWX''), Textron, Inc. (''TXT''), Tyco International Ltd. (''TYC''), UnitedHealth Group, Inc. (''UNH''), Proshares Ultra Real Estate (''URE''), Proshares Ultra Financials (''UYG''), Verisign, Inc. (''VRSN''), Whole Foods Market, Inc. (''WFM''), Windstream Corp. (''WIN''), Wellpoint, Inc. (''WLP''), Williams Cos., Inc. (''WMB''), Walmart Stores, Inc. (''WMT''), XL Group PLC (''XL''), Xilinx, Inc. (''XLNX''), Consumer Staples Select Sectro SPDR (''XLP''), SPDR S&P Oil & Gas Exploration and Production (''XOP''), Yum Brands, Inc. (''YUM'') and Zions Bancorp. (''ZION'') (''Additional Select Symbols'').

With the addition of the Additional Select Symbols to [sic] Select Symbols, the fees currently applicable to regular and complex orders in the Select Symbols will now be applied to regular and complex orders in the Additional Select Symbols.

A. Regular Order Fees and Rebates

The Exchange currently applies transaction fees to regular orders in the Additional Select Symbols, as follows: [7]

- For Market Maker [8] orders, a fee of $0.18 per contract; [9]
- For Market Maker (for orders sent by Electronic Access Members), Firm Proprietary/Broker-Dealer and Professional Customer [10] orders, a fee of $0.20 per contract;
- For Non-ISE Market Maker [11] orders, a fee of $0.45 per contract;
- For Priority Customer orders, a fee of $0.00 per contract.

The Exchange currently charges a fee of $0.20 per contract to all market participants (except for Market Makers, this fee is currently $0.18 per contract,[12] and for Priority Customers, this fee is $0.00 per contract) for regular Crossing Orders in the Non-Select Symbols (this fee currently applies to the Additional Select Symbols as they are a subset of Non-Select Symbols). The Exchange also currently charges a fee of $0.20 per contract to all market participants (except for Non-ISE Market Makers, this fee is currently $0.45 per contract, and for Market Makers, this fee is $0.18 per contract [13]) for regular Responses to Crossing Orders in the Non-Select Symbols (this fee currently applies to the Additional Select Symbols as they are a subset of Non-Select Symbols).

With this proposed rule change, the Additional Select Symbols will now be subject to the maker/taker fees and rebates applicable to regular orders in the Select Symbols.[14] The Exchange currently charges the following maker fees and rebates for Select Symbols: (i) For Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders, $0.10 per contract; (ii) for Priority Customer orders, $0.00 per contract; and (iii) for Market Maker Plus [15] orders, a rebate of $0.10 per contract. The Exchange also currently charges the following taker fees for Select Symbols: (i) for Market Maker and Market Maker Plus orders, $0.32 per contract; (ii) for Non-ISE Market Maker orders, $0.36 per contract; (iii) for Firm Proprietary/Broker-Dealer and Professional Customer orders, $0.33 per contract; and (iv) for Priority Customer orders, $0.25 per contract.

The Exchange currently charges Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customers a fee of $0.20 per contract ($0.00 per contract for Priority Customers) for regular Crossing Orders in the Select Symbols, and a fee of $0.40 per contract to all market participants for regular Responses to Crossing Orders in the Select Symbols. With this proposed rule change, the fee for regular Crossing Orders in the Additional Select Symbols will remain at $0.20 per contract for most market participants. For Priority Customers, this fee will remain at $0.00 per contract, and for Market Makers, this fee will increase, from $0.18 per contract [16] to $0.20 per contract. With this proposed rule change, the fee for regular Responses to Crossing Orders will increase for most market participants, from $0.20 per contract to $0.40 per contract (for Market Makers, this fee will increase from $0.18 per contract to $0.40 per contract), with the exception of Non-ISE Market Makers who will now pay a lower fee of $0.40 per contract as opposed to $0.45 per contract.

The Exchange also currently provides a rebate of $0.25 per contract for contracts that are submitted to the Price Improvement Mechanism that do not trade with their contra order in the Select Symbols, and a rebate of $0.15 per contract for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order in the Select Symbols except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbook. With this proposed rule change, market participants trading in the Additional Select Symbols will now be eligible for rebates that were not previously available for this group of symbols. Specifically, market participants will now receive a rebate of $0.25 per contract for contracts that are submitted to the Price Improvement Mechanism that do not trade with their contra order in the Additional Select Symbols. Further, market participants will now also receive a rebate of $0.15 per contract for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order in the Additional Select Symbols except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbook.

Further, the Exchange currently charges Primary Market Makers (PMMs) a transaction fee of $0.18 per contract [17]

[7] Additional Select Symbols are currently subject to the standard transaction fee listed in the table titled Non-Select Symbols. *See* Schedule of Fees, Section I, Regular Order Fees and Rebates.

[8] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' [sic] collectively. *See* ISE Rule 100(a)(25).

[9] The Exchange provides a volume-based discount to fees to ISE Market Maker contracts for regular orders in Non-Select Symbols. *See* Schedule of Fees, Section IV, C. ISE Market Maker Discount Tiers.

[10] A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.

[11] A Non-ISE Market Maker, or Far Away Market Maker (''FARMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange.

[12] The volume-based discount to fees to ISE Market Maker contracts also applies to regular Crossing Orders. *See supra,* note 7 [sic].

[13] The volume-based discount to fees to ISE Market Maker contracts also applies to regular Responses to Crossing Orders. *See supra,* note 7 [sic].

[14] *See* Schedule of Fees, Section I, Regular Order Fees and Rebates.

[15] In order to promote and encourage liquidity in the Select Symbols, the Exchange currently offers a $0.10 per contract rebate to Market Makers if the quotes they sent to the Exchange qualify the Market Maker to become a Market Maker Plus. A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months and 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium for all expiration months in that symbol during the current trading month. A Market Maker's single best and single worst overall quoting days each month, on a per symbol basis, is excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

[16] The volume-based discount to fees to ISE Market Maker contracts also applies. *See supra,* note 7.

[17] The volume-based discount to fees to ISE Market Maker contracts also applies. *See supra,* note 7.

in the Additional Select Symbols when they trade report a Priority Customer or Professional Customer order in accordance with their obligation to provide away market price protection. PMMs in Select Symbols do not receive a maker rebate nor pay a taker fee when trade reporting.[18] With this proposed rule change, PMMs in the Additional Select Symbols will also not receive a maker rebate nor pay a taker fee when trade reporting.

The Exchange also currently provides a $0.20 per contract fee credit to PMMs for execution of Priority Customer orders in the Non-Select Symbols—for classes in which it serves as a PMM—that send an Intermarket Sweep Order to other exchanges. This credit is applied regardless of the transaction fee charged by a destination market. For PMMs in the Select Symbols, this credit is equal to the fee charged by the destination market. With this proposed rule change, PMMs in the Additional Select Symbols will now be provided with a credit that is equal to the fee charged by the destination market.

Additionally, the Exchange currently provides a $0.20 per contract credit for responses to flash orders in the Non-Select Symbols when trading against Professional Customers. For Select Symbols, the per contract fee credit for responses to flash orders is (i) $0.10 per contract when trading against Priority Customers; (ii) $0.12 per contract when trading against Preferenced Priority Customers; and (iii) $0.10 per contract when trading against Professional Customers. Market participants trading in the Additional Select Symbols will now be provided the rebate at levels that are currently in place for Select Symbols, as described above.

Finally, the Exchange currently charges a payment for order flow (PFOF) fee of $0.25 per contract, applicable to Market Makers when trading against Priority Customer orders in the Additional Select Symbols. The Exchange does not charge a PFOF fee for trading in the Select Symbols. Therefore, with this proposed rule change, the Exchange will no longer charge a PFOF fee for trading in the Additional Select Symbols.

B. Complex Order Fees and Rebates

With this proposed rule change, the maker fee for complex orders in the Additional Select Symbols will remain unchanged because the Exchange currently charges the same maker fee for complex orders in the Select Symbols, in the Penny Pilot Symbols and in the Non-Penny Pilot Symbols.[19] Specifically, for Select Symbols, Penny Pilot Symbols and Non-Penny Pilot Symbols, the Exchange currently charges a complex order maker fee of: (i) $0.10 per contract for Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; (ii) $0.20 per contract for Non-ISE Market Maker orders; and (iii) $0.00 per contract for Priority Customer orders.

With this proposed rule change, the maker fee for complex orders in the Additional Select Symbols when trading against Priority Customers will remain unchanged because the Exchange currently charges the same maker fee for complex orders in the Select Symbols (excluding SPY) when trading against Priority Customers and in the Non-Select Penny Pilot Symbols when trading against Priority Customers.[20] Specifically, for complex orders in the Select Symbols (excluding SPY) when trading against Priority Customer and for complex orders in the Non-Select Penny Pilot Symbols when trading against Priority Customers, the Exchange currently charges a maker fee of: (i) $0.39 per contract for Market Maker orders; (ii) $0.40 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.00 per contract for Priority Customer orders.

Since the Exchange is proposing to move all the ISE-listed Penny Pilot Program symbols to its list of Select Symbols, there is no longer a need to separately identify these two groups of symbols on the Schedule of Fees. Therefore, the Exchange proposes to rename certain columns applicable to Maker Fees in Section II (Complex Order Fees and Rebates). Specifically, the Exchange proposes to rename the column titled 'Maker Fee for Select Symbols and Penny Pilot Symbols' as 'Maker Fee for Select Symbols.' The Exchange also proposes to rename the column titled 'Maker Fee for Non-Penny Pilot Symbols' to 'Maker Fee for Non-Select Symbols.' And finally, the Exchange proposes to rename the column titled 'Maker Fee for non-Penny Pilot Symbols when trading against Priority Customer' to 'Maker Fee for Non-Select Symbols when trading against Priority Customer.' The Exchange also proposes to delete the column titled 'Maker Fee for Non-Select Penny Pilot Symbols when trading against Priority Customer' because these symbols are now represented in the column for maker fees for Select Symbols.

With this proposed rule change, the taker fee for complex orders in the Additional Select Symbols will remain unchanged because the Exchange currently charges the same taker fee for complex orders in the Select Symbols (excluding SPY) and in the Non-Select Penny Pilot Symbols.[21] Specifically, for complex orders in the Select Symbols (excluding SPY) and in the Non-Select Penny Pilot Symbols, the Exchange currently charges a taker fee of: (i) $0.39 per contract for Market Maker orders; (ii) $0.40 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.00 per contract for Priority Customer orders.

With this proposed rule change, the Fee for Crossing Orders when trading complex orders in the Additional Select Symbols will remain unchanged because the Exchange currently charges $0.20 per contract (for largest leg only) for complex Crossing Orders in all symbols, except for Priority Customers who are currently charged $0.00 per contract.

With this proposed rule change, the Fee for Responses to Crossing Orders when trading complex orders in the Additional Select Symbols will remain unchanged because the Exchange currently charges $0.40 per contract for Responses to Crossing Orders when trading complex orders in the Select Symbols and in the Penny Pilot Symbols.[22]

Additionally, the Exchange currently provides Market Makers with a discount when trading against Priority Customer orders that are preferenced to them. This discount is applicable when Market Makers add or remove liquidity in the Select Symbols, in SPY, in the Non-Select Penny Pilot Symbols and in the Non-Penny Pilot Symbols. The Additional Select Symbols are currently a part of the Non-Select Penny Pilot Symbols and therefore this discount will continue to apply to the Additional

[18] *See* Schedule of Fees, Section I, Regular Order Fees and Rebates, footnote 9.

[19] The Additional Select Symbols are currently subject to the fee listed in the column titled Maker Fee for Select Symbols and Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[20] The Additional Select Symbols are currently subject to the fee listed in the column titled Maker Fee for Non-Select Penny Pilot Symbols when trading against Priority Customer. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[21] The Additional Select Symbols are currently subject to the fee listed in the column titled Taker Fee for Non-Select Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

[22] The Additional Select Symbols are currently subject to the fee listed in the column titled Fee for Responses to Crossing Orders for Select Symbols and Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

Select Symbols when they become Select Symbols.

Since the Exchange is proposing to move all the ISE-listed Penny Pilot Program symbols to its list of Select Symbols, there is no longer a need to separately identify these two groups of symbols on the Schedule of Fees. Therefore, the Exchange proposes to rename certain columns applicable to Taker Fees in Section II (Complex Order Fees and Rebates). Specifically, the Exchange proposes to rename the column titled 'Taker Fee for non-Penny Pilot Symbols' as 'Taker Fee for Non-Select Symbols.' The Exchange also proposes to rename the column titled 'Fee for Responses to Crossing Orders for Select Symbols and Penny Pilot Symbols' to 'Fee for Responses to Crossing Orders for Select Symbols.' And finally, the Exchange proposes to rename the column titled 'Fee for Responses to Crossing Orders for non-Penny Pilot Symbols' to 'Fee for Responses to Crossing Orders for Non-Select Symbols.' The Exchange also proposes to delete the column titled 'Taker Fee for Non-Select Penny Pilot Symbols' because these symbols are now represented in the column for taker fees for Select Symbols.

Further, the Exchange proposes to re-define Select Symbols in the Preface of the Schedule of Fees as options overlying all symbols listed on the ISE that are in the Penny Pilot Program and providing a link to a page on the Exchange's Web site where a current list of ISE-listed symbols that are in the Penny Pilot Program is made available. Additionally, with this proposed rule change, all ISE-listed symbols that are in the Penny Pilot Program will now be subject to the Exchange's maker/taker fees and rebates and the PFOF fee will no longer apply to these symbols. The Exchange, therefore, proposes to amend the PFOF fee for Penny Pilot Symbols in Section IV. D. by removing that fee from the Schedule of Fees altogether.

2. Rebates for Priority Customer Complex Orders

The Exchange currently provides volume-based tiered rebates for Priority Customer complex orders in the Select Symbols (excluding SPY), in SPY, in the Non-Select Penny Pilot Symbols and in the Non-Penny Pilot Symbols when these orders trade with non-Priority Customer orders in the complex order book.

For the Additional Select Symbols,[23] the Exchange currently provides a base rebate of $0.33 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, Members who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month are provided a rebate of $0.35 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.37 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.38 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.39 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts. The highest rebate amount achieved by the Member for the current calendar month applies retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month.

For Select Symbols (excluding SPY), the Exchange currently provides a base rebate of $0.34 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, Members who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month are provided a rebate of $0.37 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.38 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.39 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.40 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts. The highest rebate amount achieved by the Member for the current calendar month applies retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month.

The Exchange now proposes to lower the rebate payable for the first three tiers for Select Symbols (excluding SPY). Specifically, the Exchange proposes to lower the base rebate from $0.34 per contract to $0.33 per contract; lower the rebate payable for reaching an ADV of 40,000 Priority Customer complex order contracts from $0.37 per contract to $0.35 per contract; and lower the rebate payable for reaching an ADV of 75,000 Priority Customer complex order contracts from $0.38 per contract to $0.37 per contract. The Exchange is not proposing any change to the remaining tiers. With this proposed rule change, the Exchange seeks to standardize the rebate payable for Priority Customer complex orders that trade with non-Priority Customer complex orders in the complex order book in the Select Symbols and in the Additional Select Symbols.

With the proposed change noted in the preceding paragraph, the rebate levels payable for Priority Customer complex orders in the Additional Select Symbols will, in some cases, remain the same (i.e., the base rebate, the rebate level for reaching an ADV of 40,000 Priority Customer complex order contracts and the rebate level for reaching an ADV of 75,000 Priority Customer complex order contracts). The rebate levels payable for Priority Customer complex orders in the Additional Select Symbols for the highest two tiers will, however, increase (i.e., the rebate level for reaching an ADV of 125,000 Priority Customer complex order contracts will increase from $0.38 per contract to $0.39 per contract and the rebate level for reaching an ADV of 225,000 Priority Customer complex order contracts will increase from $0.39 per contract to $0.40 per contract) because the rebate levels payable for Priority Customer complex orders in the Select Symbols for those two tiers are higher than the rebate levels currently payable for Priority Customer complex orders in Non-Select Penny Pilot Symbols.

Again, as noted above, the Exchange is proposing to move all the ISE-listed Penny Pilot Program symbols to its list of Select Symbols. As a result, there is no longer a need to separately identify these two groups of symbols on the Schedule of Fees. Therefore, the Exchange proposes to rename certain columns applicable to Rebates in Section II (Complex Order Fees and Rebates). Specifically, the Exchange proposes to rename the column titled 'Rebate for non-Select non-Penny Pilot Symbols' as 'Rebate for Non-Select Symbols.' The Exchange also proposes to rename the column titled 'PIM Break-

[23] The Additional Select Symbols are currently subject to the rebate listed in the column titled Rebate for non-Select Penny Pilot Symbols. *See* Schedule of Fees, Section II, Complex Order Fees and Rebates.

up Rebate for Select Symbols and Penny Pilot Symbols' as 'PIM Break-up Rebate for Select Symbols.' And finally, the Exchange proposes to rename the column titled 'Facilitation and Solicitation Break-up Rebate for Select Symbols and Penny Pilot Symbols' as 'Facilitation and Solicitation Break-up Rebate for Select Symbols.' The Exchange also proposes to delete the column titled 'Rebate for non-Select Penny Pilot Symbols' because these symbols are now represented in the column for rebates for Select Symbols.

3. New Rebate for Incremental Priority Customer Complex Orders

As noted above, the Exchange currently provides volume-based tiered rebates for Priority Customer complex orders in the Select Symbols (excluding SPY), in SPY, in the Non-Select Penny Pilot Symbols and in the Non-Penny Pilot Symbols when these orders trade with non-Priority Customer orders in the complex order book. In order to enhance the Exchange's competitive position and to incentivize Members to increase the amount of Priority Customer complex orders in these symbols that they send to the Exchange, the Exchange now proposes to adopt an additional rebate of $0.01 per contract payable for incremental Priority Customer complex order volume above the highest tier. In other words, if Member ABCD achieves an ADV of 230,000 Priority Customer complex order contracts during March, then in addition to receiving the highest rebate level of $0.40 per contract because Member ABCD met the highest tier volume threshold, Member ABCD will also receive an additional $0.01 per contract for the additional eligible ADV of 5,000 Priority Customer complex order contracts it traded above the highest threshold of 225,000 Priority Customer complex order contracts. This proposed new incremental rebate of $0.01 per contract will apply to Priority Customer complex orders in the Select Symbols, in SPY and in the Non-Select Symbols when these orders trade with non-Priority Customer orders in the complex order book.

With this proposed rule change, the Exchange expects to attract additional order flow of regular and complex orders in the Additional Select Symbols. The Exchange's maker/taker fees and rebates are competitively priced and have been effective in attracting order flow of regular and complex orders in the Select Symbols.

With this proposed rule change, the taker fees and Response to Crossing Order fees charged to all market participants for regular orders in the Additional Select Symbols will increase, except for Non-ISE Market Makers whose fee [sic] will decrease, while the maker fees for regular orders in the Additional Select Symbols will decrease, except for Priority Customer maker fees, which will remain the same at $0.00 per contract. Market Makers will now also be eligible for the Market Maker Plus rebate, which was previously not applicable to the Additional Select Symbols. This proposed rule change does not proposed [sic] any change to the maker and taker fees for complex orders in the Additional Select Symbols as those fees remain unchanged. And as noted above, the base rebate level and the rebate levels for tiers 1 and 2 will remain unchanged for Priority Customer complex order [sic] in the Additional Select Symbols while the rebate levels payable for Priority Customer complex orders in the Additional Select Symbols for the two highest tiers will increase compared to the current rebate levels for this group of symbols.

2. Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Act [24] in general, and furthers the objectives of Section 6(b)(4) of the Act [25] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange believes that it is reasonable to add the Additional Select Symbols to the current list of Select Symbols. The Exchange believes that applying the fees and rebates applicable to Select Symbols to the Additional Select Symbols will attract additional order flow to the Exchange. Select Symbol pricing has proven beneficial for the Exchange and its participants and the Exchange believes that moving the Additional Select Symbols to Select Symbols pricing would enhance liquidity and participation in those symbols.

The Exchange believes that it is equitable and not unfairly discriminatory to amend its list of Select Symbols to add the Additional Select Symbols because the fees and rebates for Select Symbols would apply uniformly to all categories of participants in the same manner. All market participants who trade options in the Select Symbols would be uniformly subject to the fees and rebates applicable to those symbols.

The Exchange believes the proposed rule change is reasonable and equitable because it generally lowers the maker fees applicable to market participants and believes that the lower maker fees will attract additional maker liquidity and size to the Exchange in the Additional Select Symbols. Additionally, while this proposed rule change proposes to increase the taker fees applicable to market participants, the Exchange believes the benefits of better market quality will outweigh the taker fee increases based on the Exchange's experience with trading in the Select Symbols. Further, the Exchange believes this proposed rule change is reasonable and equitable because it will result in market participants receiving higher rebates when they achieve the volume threshold for the two highest tiers of Priority Customer complex orders ADV for orders [sic] trade with non-Priority Customer complex orders in the complex order book as the current rebate payable for these orders in Select Symbols is higher than the current rebate payable for these orders in Additional Select Symbols.

The Exchange believes that it is reasonable and equitable to provide rebates for Priority Customer complex orders when these orders trade with Non-Priority Customer complex orders in the complex order book because paying a rebate would continue to attract additional order flow to the Exchange and create liquidity in the symbols that are subject to the rebate, which the Exchange believes ultimately will benefit all market participants who trade on ISE. The Exchange already provides these rebates, and is now proposing to adopt a unique rebate for incremental volume to encourage Members who trade a lot on ISE to trade more. With this proposed rule change, Market Makers will also now be eligible to receive the Market Maker Plus rebate which was not previously applicable to the Additional Select Symbols. The Exchange believes that the proposed rebates are competitive with rebates provided by other exchanges and are therefore reasonable and equitably allocated to those members that direct orders to the Exchange rather than to a competing exchange.

The Exchange believes that it is reasonable and equitable to provide a discount to Market Makers on preferenced orders as an incentive for them to quote in the complex order book. ISE notes that with this proposed rule change, the Exchange will continue to maintain the differential that was previously in place for the Additional Select Symbols.

The Exchange believes that the proposed changes are non-

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(4).

discriminatory because the proposal simply moves the Additional Select Symbols from one category of fees into another category thereby applying fees currently in effect. Further, the Exchange believes that it is equitable and not unfairly discriminatory to amend its list of Select Symbols to add the Additional Select Symbols to the Select Symbols because the fees applicable to the Select Symbols would apply uniformly to all categories of participants in the same manner. All market participants who trade the Select Symbols would be uniformly subject to the fees and rebates applicable to those symbols.

B. Self-Regulatory Organization's Statement on Burden on Competition

ISE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This rule change, which proposes to move a group of symbols to an existing category of symbols, does not impose any burden on competition. With this proposed rule change, the Additional Select Symbols will be subject to fees and rebates that are already in place on the Exchange and therefore, do not impose any additional burden on competition that is not necessary or appropriate in furthering the purposes of the Act. The Exchange believes that the proposed changes promote competition, as they are designed to allow the Exchange to better compete for order flow and improve the Exchange's competitive position.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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 [26] and subparagraph (f)(2) of Rule 19b-4 thereunder,[27] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2013–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2013–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2013–19 and should be submitted on or before April 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06394 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(3)(A)(ii).

[27] 17 CFR 240.19b–4(f)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69133; File No. SR–NASDAQ–2013–042]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules 7014 and 7018

March 14, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on March 1, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III, below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing changes to its schedule of fees and rebates for execution of orders for securities priced at $1 or more under Rule 7018, as well as a minor change to its Routable Order Program under Rule 7014. The changes pursuant to this proposal are effective upon filing, and the Exchange will implement the proposed rule changes on March 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Designated Retail Orders

NASDAQ proposes to introduce new liquidity provider credit tiers for orders designated by a member as Designated Retail Orders. The proposed change is part of an ongoing effort by NASDAQ to use financial incentives to encourage greater participation in NASDAQ by members that represent retail customers.[3] For purposes of the proposed new tiers and credits, a Designated Retail Order would be defined as an agency or riskless principal[4] order that originates from a natural person and is submitted to NASDAQ by a member that designates it pursuant to Rule 7018, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. If a member enters Designated Retail Orders through an MPID through which (i) at least 90% of the shares of liquidity provided during the month are provided through Designated Retail Orders, and (ii) the member accesses, provides, or routes shares of liquidity that represent at least 0.10% of Consolidated Volume[5] during the month, the member will receive a credit of $0.0034 per share executed for Designated Retail Orders that provide liquidity if they are displayed orders. For all other Designated Retail Orders that are displayed orders and that provide liquidity, the credit will be $0.0033 per share executed. With respect to Designated Retail Orders that are not displayed, NASDAQ's existing credits for midpoint pegged and midpoint peg post-only orders (''midpoint orders'') and other forms of non-displayed orders would apply.[6]

A member wishing to qualify for either of these tiers may do so by designating orders as Designated Retail Orders, either on an order-by-order basis, or by designating all orders on a particular order entry port as Designated Retail Orders.[7] The member would be required to attest, in a form prescribed by NASDAQ, that it has implemented policies and procedures that are reasonably designed to ensure that every order designated by the member as a ''Designated Retail Order'' complies with NASDAQ's definition of a Designated Retail Order, as described above.

The member's written policies and procedures must be reasonably designed to assure that it will only designate orders as Designated Retail Orders if all requirements of a Designated Retail Order are met. Such written policies and procedures must require the member to (i) exercise due diligence before entering a Designated Retail Order to assure that entry as a Designated Retail Order is in compliance with the requirements specified by NASDAQ, and (ii) monitor whether orders entered as Designated Retail Orders meet the applicable requirements. If the member represents Designated Retail Orders from another broker-dealer customer, the member's supervisory procedures must be reasonably designed to assure that the orders it receives from such broker-dealer customer that it designates as Designated Retail Orders meet the definition of a Designated Retail Order. The member must (i) obtain an annual written representation, in a form acceptable to NASDAQ, from each broker-dealer customer that sends it orders to be designated as Designated Retail Orders that entry of such orders as Designated Retail Orders will be in compliance with the requirements specified by NASDAQ, and (ii) monitor whether its broker-dealer customer's Designated Retail Order flow continues to meet the applicable requirements.[8]

NASDAQ may disqualify a member from qualifying for Designated Retail Order rebates if NASDAQ determines, in its sole discretion, that a member has failed to abide by the requirements proposed herein, including, for example, if a member designates orders submitted to NASDAQ as Designated Retail Orders but those orders fail to meet any of the requirements of Designated Retail Orders.

New Tier for Members Active in the NASDAQ Market Center and the NASDAQ Options Market

NASDAQ is proposing to introduce a new liquidity provider credit tier for members that are active in both the Nasdaq Market Center and the NASDAQ Options Market (''NOM''). At present, NASDAQ provides a credit of $0.0027 per share executed for displayed orders that provide liquidity if a member has (i) shares of liquidity provided in all securities during the month representing more than 0.10% of Consolidated Volume, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its NOM MPIDs. NASDAQ provides a credit of $0.0029 per share executed for displayed orders that provide liquidity if a member has (i) shares of liquidity provided in all securities during the month representing more than 0.15% of Consolidated Volume, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume

[3] Thus, the change complements NASDAQ's existing Investor Support Program (''ISP'') and Routable Order Program (''ROP'') under Rule 7014, both of which provide enhanced rebates for orders with characteristics associated with retail investors. The Commission has expressed concern that a significant percentage of the orders of individual investors are executed in over-the-counter markets, that is, at off-exchange markets. Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, ''Concept Release''). In the Concept Release, the Commission recognized the strong policy preference under the Act in favor of price transparency and displayed markets. See also Mary L. Schapiro, Strengthening Our Equity Market Structure (Speech at the Economic Club of New York, Sept. 7, 2010) (''Schapiro Speech,'' available on the Commission Web site) (comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that a significant percentage of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

[4] To qualify as a Designated Retail Order, a riskless principal order must satisfy the criteria set forth in FINRA Rule 5320.03. These criteria include that the member maintain supervisory systems to reconstruct, in a time-sequenced manner, all orders that are entered on a riskless principal basis; and the member submits a report, contemporaneously with the execution of the facilitated order, that identifies the trade as riskless principal.

[5] ''Consolidated Volume'' is defined as the total consolidated volume reported to all consolidated transaction plans by all exchanges and trade reporting facilities.

[6] Specifically, NASDAQ provides a credit of $0.0017 per share executed for midpoint orders if the member provides an average daily volume of more than 3 million shares through midpoint orders during the month, $0.0015 per share executed for midpoint orders if the member provides an average daily volume of 3 million or fewer shares through midpoint orders during the month, and $0.0010 per share executed for other orders that are not displayed.

[7] A Designated Retail Order flag will be made available for the purpose of designating orders.

[8] FINRA will, on behalf of NASDAQ, review a member's compliance with these requirements through an exam-based review of the member's internal controls.

during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its NOM MPIDs. Finally, NASDAQ currently provides a credit of $0.00295 per share executed for displayed orders that provide liquidity if a member has (i) shares of liquidity provided in all securities during the month representing more than 1.0% of Consolidated Volume, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 200,000 contracts of liquidity accessed or provided through one or more of its NOM MPIDs. Under the proposed additional tier, NASDAQ will provide a credit of $0.0030 per share executed for displayed orders that provide liquidity if a member (i) has shares of liquidity provided in all securities during the month representing at least 0.45% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) qualifies for the Penny Pilot Tier 7 Customer and Professional Rebate to Add Liquidity under Chapter XV, Section 2 of the NOM rules during the month through one or more of its NOM MPIDs. The Tier 7 Customer and Professional Rebate is being proposed for NOM through a contemporaneous proposed rule change.[9] A NOM Participant may qualify for the Tier 7 Customer and Professional Rebate if it (i) has Total Volume [10] of 325,000 or more contracts per day in a month, (2) adds Customer and Professional liquidity of 1.00% or more of national customer volume in multiply-listed equity and ETF options classes in a month, or (iii) adds Customer and Professional liquidity of 60,000 or more contracts per day in a month and NOM Market Maker liquidity of 30,000 or more per day per month. Thus, as with existing tiers that require participation in both the Nasdaq Market Center and NOM, the criteria for the new tier establish volume thresholds that must be met on both markets in order to receive the higher rebate. In doing so, the pricing incentive recognizes the prevalence of trading in which members simultaneously trade different asset classes within the same strategy. Because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, NASDAQ believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center.

Designated Securities Pricing

In December 2012,[11] NASDAQ introduced a discounted execution fee of $0.0028 per share executed for certain securities designated in the rule (''Designated Securities'').[12] The discounted fee applied to all orders in Designated Securities entered through an MPID through which a member accessed, provided, or routed shares of liquidity that represent more than 0.25% of Consolidated Volume during the month, including a daily average volume of at least 2 million shares of liquidity provided. NASDAQ is proposing to eliminate the discount for Designated Securities, effective March 1, 2013. The program has not been successful at achieving its goal of materially altering NASDAQ's market share of executions of trades in Designated Securities, and accordingly NASDAQ believes that it may appropriately be discontinued.

Routable Order Program

In February 2013, NASDAQ introduced a new Routable Order Program aimed at encouraging greater participation in NASDAQ by members that represent retail customers.[13] NASDAQ is now proposing a minor enhancement to the program to broaden its availability. Under the program, a member must have an MPID through which it provides an average daily volume of at least 35 million shares of displayed liquidity using orders that employ the SCAN or LIST routing strategies,[14] including an average daily volume of at least 2 million shares that are provided prior to the NASDAQ Opening Cross and/or after the NASDAQ Closing Cross. Under the proposed change, a qualifying member must have an MPID through which it (i) provides an average daily volume of at least 35 million shares of displayed liquidity using orders that employ the SCAN or LIST routing strategies, and (ii) provides displayed liquidity and/or routes an average daily volume of at least 2 million shares prior to the NASDAQ Opening Cross and/or after the NASDAQ Closing Cross using orders that employ the SCAN or LIST strategies. Thus, the satisfaction of the volume requirements for participation in the program would not be affected by the extent to which, during pre- and post-market hours, routable orders execute at NASDAQ or at another venue to which they are routed prior to posting to the NASDAQ book. The change reflects the fact that wider spreads during pre- and post-market hours make it more likely that orders will be marketable against quotes posted at other markets and therefore will route rather than posting to the NASDAQ book. The pricing associated with SCAN and LIST orders entered by ROP participants through a qualifying MPID is not being altered.[15]

[9] SR–NASDAQ–2013–041 (March 1, 2013).

[10] ''Total Volume'' is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and Non-Penny Pilot Options that either adds or removes liquidity on NOM. The term ''Customer'' applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a Professional. The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48) of the NOM Rules. The term ''Non-NOM Market Maker'' means a registered market maker on another options exchange that is not a NOM Market Maker. The term ''NOM Market Maker'' means a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2 of the NOM Rules, and must also remain in good standing pursuant to Chapter VII, Section 4 of the NOM Rules. The term ''Firm'' applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC. The term ''Broker-Dealer'' applies to any transaction that is not subject to any of the other transaction fees applicable within a particular category.

[11] Securities Exchange Act Release No. 68421 (December 13, 2012), 77 FR 75232 (December 19, 2012) (SR–NASDAQ–2012–135).

[12] In February 2013, NASDAQ amended the list of Designated Securities. Securities Exchange Act Release No. 68905 (February 12, 2013), 78 FR 11716 (February 19, 2013) (SR–NASDAQ–2013–023).

[13] Securities Exchange Act Release No. 68905 (February 12, 2013), 78 FR 11716 (February 19, 2013) (SR–NASDAQ–2013–023).

[14] SCAN is a basic routing strategy that is widely used by firms that represent retail customers. SCAN orders check the Nasdaq Market Center System for available shares, while remaining shares are simultaneously routed to destinations on the applicable routing table. If shares remain un-executed after routing, they are posted on the book. Once on the book, if the order is subsequently locked or crossed by another market center, the System will not route the order to the locking or crossing market center. LIST is a routing strategy that is used by firms that wish for their orders to participate in the opening and closing processes of each security's primary listing exchange, to access liquidity on all exchanges if marketable, and otherwise to post to the NASDAQ book. Members, including those that represent retail customers, use the LIST strategy to offload on the Exchange and its routing broker the technical complexity associated with routing orders to participate in the market open and/or close.

[15] For orders in securities priced at $1 per share or more, NASDAQ charges a fee of $0.0029 per share executed with respect to such orders when they access liquidity in the Nasdaq Market Center, and provides a credit of $0.0037 per share executed with respect to such orders when they provide liquidity on NASDAQ. For orders in securities priced less than $1 per share, NASDAQ charges a fee of 0.30% of the total transaction cost with respect to such orders when they access liquidity in the Nasdaq Market Center, and provides a credit of $0.00003 per share executed if they are designated for display and provide liquidity after posting to the book.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[16] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[17] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes with respect to the ROP and the tiers for Designated Retail Orders are reflective of NASDAQ's ongoing efforts to use pricing incentive programs to attract orders of retail customers to NASDAQ and improve market quality. As NASDAQ noted in its filing to introduce the ROP, the goal of that program is to provide meaningful incentives for members that represent significant numbers of retail customers to increase their participation in NASDAQ. The proposed change to the program is reasonable because it will broaden the availability of the significant fee reductions available through the program, thereby reducing the costs of members that represent retail customers and that take advantage of the program, and potentially also reducing costs to the customers themselves. The change is consistent with an equitable allocation of fees because it will make it easier for more members to qualify for the program. NASDAQ further believes that the proposed change is not unreasonably discriminatory because it will ensure that eligibility to participate in the program is not affected by the extent to which orders that are entered during pre- and post-market hours route to quotes of other trading venues against which they are marketable rather than posting to the NASDAQ book.

The proposed pricing tiers for Designated Retail Orders are reasonable because they reflect the availability of a significant fee reduction for members that represent retail customers. NASDAQ believes that it is reasonable to use fee reductions as a means to encourage greater retail participation in NASDAQ. Because retail orders are likely to reflect long-term investment intentions, they promote price discovery and dampen volatility. Accordingly, their presence in the NASDAQ market has the potential to benefit all market participants. For this reason, NASDAQ believes that it is equitable to provide significant financial incentives to encourage greater retail participation in the market. NASDAQ further believes that the proposal is equitable and not unreasonably discriminatory because it will significantly broaden the retail pricing incentives already provided through the ROP and the ISP by offering a meaningful pricing incentive ($0.0033 per share executed) that is available to all members that are able to attest that orders designated by them for participation in the program meet the definition of a Designated Retail Order. Moreover, the higher rebate of $0.0034 per share executed for members that trade higher volumes (at least 0.1% of Consolidated Volume) and that are able to focus the Designated Retail Orders they introduce through a particular MPID is consistent with existing NASDAQ pricing policies that offer higher rebates and/or lower fees for members based on volume but that require concentration of activity through particular MPIDs as a means of encouraging members to manage their trading activity in a unified manner rather than merely serving as an aggregator of orders from sponsored participants. NASDAQ believes that these requirements are consistent with an equitable allocation of fees and not unreasonably discriminatory because they provide the most favorable pricing to the market participants that are most active on NASDAQ and that thereby promote price discovery and market stability. These requirements also avoid providing excessive encouragement to members aggregating the activity of several firms (some of whom may not themselves by members of the Exchange) for the sole purpose of earning a higher rebate.[18]

The change with respect to Designated Securities is reasonable: Although it eliminates a pricing incentive that was in effect for a short period of time, the change causes NASDAQ's fees to access liquidity in Designated Securities to revert to the same levels as in effect for other securities. These fees are, in turn, consistent with the requirements imposed by SEC Rule 610 with respect to access fees.[19] The change is also consistent with an equitable allocation of fees and not unreasonably discriminatory because all members will pay the same access fees with respect to Designated Securities as they currently pay with respect to all other securities.

The new tier for members active in both the NASDAQ Market Center and NOM is reasonable because it reflects the availability of a significant price reduction for members that support liquidity on both markets. The change is consistent with an equitable allocation of fees because the pricing tier requires significant levels of liquidity provision, which benefits all market participants, and because activity in NOM also supports price discovery and liquidity provision in the NASDAQ Market Center due to the increasing propensity of market participants to be active in both markets and the influence of each market on the pricing of securities in the other. The new tier is not unreasonably discriminatory because market participants may qualify for a comparable or a higher rebate through alternative means that do not require participation in NOM, including through the new program for Designated Retail Orders introduced through this proposed rule change, through the ROP, and through a combination of qualification for volume-based tiers and participation in the ISP.

Finally, NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that all aspects of the proposed rule change reflect this competitive environment because the changes reflect significant price reductions, offset only to a small extent by the elimination of the program for Designated Securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, NASDAQ believes that these changes reflect significant price reductions, offset only to a small extent by the elimination of the program for Designated Securities. Such reductions reflect the high degree of competition in the cash equities markets and will further enhance that competition by lowering fees and possibly encouraging NASDAQ's competitors to make

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] See Securities Exchange Act Release No. 64003 (March 2, 2011), 76 FR 12784 (March 8, 2011) (SR–NASDAQ–2011–028) (discussing introduction of fees designed to discourage aggregation for purposes of earning a rebate).

[19] 17 CFR 242.610.

competitive responses. The market for order execution is extremely competitive and members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. Accordingly, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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) of the Act [20] and paragraph (f) of Rule 19b–4 thereunder.[21] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–042 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–042 and should be submitted on or before April 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–06319 Filed 3–19–13; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA)

Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than May 20, 2013. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Request for Earnings and Benefit Estimate Statement—20 CFR 404.810—0960–0466.* Section *205(c)(2)(A)* of the Social Security Act (Act) requires the Commissioner of SSA to establish and maintain records of wages paid to, and amounts of self-employment income derived by, each individual as well as the periods in which such wages were paid and such income derived. An individual may complete and mail Form SSA–7004 to SSA to obtain a Statement of Earnings or Quarters of Coverage. SSA uses the information Form SSA–7004 collects to identify respondents' Social Security earnings records, extract posted earnings information, calculate potential benefit estimates, produce the resulting Social Security statements, and mail them to the requesters. The respondents are Social Security number holders requesting information about their Social Security earnings records and estimates of their potential benefits.

Type of Request: Revision of an OMB-approved information collection.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

Modality of collection	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–7004 (paper)	17,219	1	5	1,435
SSA–7004 (Internet)	3,198,361	1	5	266,530
Totals	3,215,580			267,965

2. *Agency/Employer Government Pension Offset Questionnaire—20 CFR 404.408(a)—0960–0470.* When an individual is concurrently receiving Social Security spousal or surviving spousal benefits and a government pension, the individual may have the amount of Social Security benefits reduced by the government pension amount. This is the Government Pension Offset (GPO). SSA uses Form SSA–L4163 to collect accurate pension information from the Federal or State government agency paying the pension for purposes of applying the pension offset provision. The form is used only when (1) the claimant does not have the information; and (2) the pension-paying agency has not cooperated with the claimant. Respondents are State government agencies that have information SSA needs to determine if the GPO applies and the amount of offset.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–L4163	1,000	1	3	50

3. *Employer Verification of Earnings After Death—20 CFR 404.821 and 404.822—0960–0472.* When SSA records show a wage earner is deceased and we receive wage reports from an employer for the wage earner for a year subsequent to the year of death, SSA mails the employer Form SSA–L4112 (Employer Verification of Earnings After Death). SSA uses the information Form SSA–L4112 provides to verify wage information previously received from the employer is correct for the employee and the year in question. The respondents are employers who report wages for employees who have died.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–L4112	50,000	1	10	8,333

4. *Function Report—Child: Birth to 1st Birthday (SSA–3375), Age 1 to 3rd Birthday (SSA–3376), Age 3 to 6th Birthday (SSA–3377), Age 6 to 12th Birthday, (SSA–3378), and Age 12 to 18th Birthday (SSA–3379)—20 CFR 416.912—0960–0542.* SSA uses Forms SSA–3375–BK through SSA–3379–BK in the disability determination process to request information from a child's parent or guardian for children applying for Supplemental Security Income (SSI). The five different versions of the form contain questions about the child's day-to-day functioning appropriate to a particular age group; thus, respondents use only one version of the form for each child.

The adjudicative team (disability examiners and medical/psychological consultants) of State disability determination services offices collect the information on the appropriate version of this form (in conjunction with medical and other evidence) to form a complete picture of the children's ability to function and their impairment-related limitations. The adjudicative team uses the completed profile to determine whether each child's impairment(s) results in marked and severe functional limitations and whether each child is disabled. The respondents are parents and guardians of child applicants for SSI.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
Function Report—Child: (SSA–3375–BK through SSA–3379–BK)	660,000	1	20	220,000

5. *Registration for Appointed Representative Services and Direct Payment—0960–0732.* SSA uses Form SSA–1699 to register appointed representatives of claimants before SSA who:

- Want to register for direct payment of fees;
- Registered for direct payment of fees prior to 10/31/09, but need to update their information;

• Registered as appointed representatives on or after 10/31/09, but need to update their information; or

• Received a notice from SSA instructing them to complete this form.

By registering these individuals, SSA: (1) Authenticates and authorizes them to do business with us; (2) allows them to access our records for the claimants they represent; (3) facilitates direct payment of authorized fees to appointed representatives; and, (4) collects the information we need to meet Internal Revenue Service (IRS) requirements to issue specific IRS forms if we pay an appointed representative in excess of a specific amount ($600). The respondents are appointed representatives who want to use Form SSA–1699 for any of the purposes cited in this Notice.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–1699	52,800	1	20	17,600

6. *Technical Updates to Applicability of the Supplemental Security Income (SSI) Reduced Benefit Rate for Individuals Residing in Medical Treatment Facilities—20 CFR 416.708(k)—0960–0758.* Section 1611(e)(1)(A) of the Act states that residents of public institutions are ineligible for SSI. However, Sections 1611(e)(1)(B) and (G) list certain exceptions to this provision making it necessary for SSA to collect information from SSI recipients who enter or leave a medical treatment facility or other public or private institution. SSA's regulation 20 CFR 416.708(k) establishes the reporting guidelines that implement this legislative requirement. SSA collects the information to determine eligibility for SSI and the payment amount. The respondents are SSI recipients who enter or leave an institution.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
Technical Updates Statement	34,200	1	7	3,990

7. *Statement for Certificate of Election for Reduced Widow(er)'s and Surviving Divorced Spouse's Benefits—20 CFR 404.335—0960–0759.* Section 202(q) of the Act provides SSA the authority to reduce benefits under certain conditions when elected by a title II beneficiary. However, reduced benefits are not payable to an already entitled spouse (or divorced spouse) who:

• Is at least age 62 and under full retirement age in the month of the number holder's death; and

• Is receiving both reduced spouse's (or divorced spouse's) benefits and either retirement or disability benefits in the month before the month of the number holder's death.

widow(er) benefits, a recipient completes Form SSA–4111. SSA uses the information Form SSA–4111 collects to pay a qualified dually entitled widow(er) (or surviving divorced spouse) who elects to receive a reduced widow(er) benefit. The respondents are qualified dually entitled widow(er)s (or surviving divorced spouse) who elect to receive a reduced widow(er) benefit.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–4111	30,000	1	2	1,000

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 19, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. *Statement for Determining Continuing Eligibility, Supplemental Security Income Payment(s)—416.204—0960–0416.* SSA conducts disability redeterminations to determine if SSI recipients (1) met and continue to meet all statutory and regulatory requirements for SSI eligibility and (2) are receiving the correct SSI payment amount. SSA makes these redeterminations through periodic use of Form SSA–8203–BK. SSA conducts this legally mandated information collection in field offices via personal contact (face-to-face or telephone interview) using the automated Modernized SSI Claim System (MSSICS). The respondents are SSI recipients or their representative payees.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
MSSICS	810,824	1	20	270,275
MSSICS/Signature Proxy	777,085	1	19	246,077
Paper	27,824	1	20	9,275
Totals	1,615,733			525,627

2. *Application for Benefits Under the Italy-U.S. International Social Security Agreement—20 CFR 404.1925—0960–0445.* As per the November 1, 1978 agreement between the United States and Italian Social Security agencies, residents of Italy filing an application for U.S. Social Security benefits directly with one of the Italian Social Security agencies must complete Form SSA–2528. SSA uses Form SSA–2528 to establish age, relationship, citizenship, marriage, death, military service, or to evaluate a family bible or other family record when determining eligibility for benefits. The Italian Social Security agencies assist applicants in completing Form SSA–2528 and then forward the application to SSA for processing. The respondents are individuals living in Italy who wish to file for U.S. Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–2528	300	1	20	100

3. *Information About Joint Checking/Savings Accounts—20 CFR 416.120, 416.1208—0960–0461.* SSA considers a person's resources when evaluating eligibility for SSI. Generally, we consider funds in checking and savings accounts as resources owned by the individuals whose names appear on the account. However, individuals applying for SSI may rebut this assumption of ownership in a joint account by submitting certain evidence to establish the funds do not belong to them. SSA uses Form SSA–2574 to collect information from SSI applicants and recipients who object to the assumption that they own all or part of the funds in a joint checking or savings account bearing their names. SSA collects information about the account from both the SSI applicant/recipient and the other account holder(s). After receiving the completed form, SSA determines if we should consider the account to be a resource for the SSI applicant/recipient. The respondents are applicants and recipients of SSI, and individuals who list themselves as joint owners of financial accounts with SSI applicants/recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–2574 Paper Form	50,000	1	7	5,833
Modernized SSI Claims System	150,000	1	7	17,500
Totals	200,000			23,333

4. *Real Property Current Market Value Estimate—0960–0471.* SSA considers an individual's resources when evaluating eligibility for SSI payments. The value of an individual's resources, including non-home real property, is one of the eligibility requirements for SSI payments. SSA obtains current market value estimates of the claimant's real property through Form SSA–L2794. We allow respondents to use readily available records to complete the form, or we can accept their best estimates. We use this form as part of initial applications and in post-entitlement situations. The respondents are small business operators in real estate, State and local government employees tasked with assessing real property values, and other individuals knowledgeable about local real estate values.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–L2794	5,438	1	20	1,813

5. *Certification of Contents of Document(s) or Record(s)—20 CFR 404.715—0960–0689.* SSA established procedures for individuals to provide the evidence necessary to establish rights to Social Security benefits.

Examples of such evidence categories include age, relationship, citizenship, marriage, death, and military service. Form SSA–704 allows SSA employees, State record custodians, and other custodians of evidentiary documents to certify and record information from original documents and records under their custodial ownership to establish these types of evidence. SSA uses Form SSA–704 in situations where individuals cannot produce the original evidentiary documentation required to establish benefits eligibility. The respondents are State record custodians and other custodians of evidentiary documents.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–704	4,800	1	10	800

6. *Supplemental Security Income Wage Reporting (Telephone and Mobile)—20 CFR 416.701–732—0960–0715.* SSA requires SSI recipients to report changes which could affect their eligibility for, and the amount of, their SSI payments, such as changes in income, resources, and living arrangements. SSA's SSI Telephone Wage Reporting (SSITWR) and SSI Mobile Wage Reporting (SSIMWR) enable SSI recipients to meet these requirements via an automated mechanism to report their monthly wages by telephone and mobile application, instead of contacting their local field offices. The SSITWR allows callers to report their wages by speaking their responses through voice recognition technology, or by keying in responses using a telephone key pad. The SSIMWR allows recipients to report their wages through the mobile wage reporting application on their smartphone. SSITWR and SSIMWR systems collect the same information and send it to SSA over secure channels. To ensure the security of the information provided, SSITWR and SSIMWR ask respondents to provide information SSA can compare against our records for authentication purposes. Once the system authenticates the identity of the respondents, they can report their wage data. The respondents are SSI recipients, deemors, or their representative payees.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
Training/Instruction*	85,000	1	35	49,583
SSITWR	80,000	12	5	80,000
SSIMWR	5,000	12	3	3,000
Total	85,000			132,583

***Note:** The same 85,000 respondents are completing training and a modality of collection, therefore the actual total number of respondents is still 85,000.

7. *Certificate of Incapacity—5 CFR 890.302(d)—0960–0739.* Rules governing the Federal Employee Health Benefits (FEHB) plan require a physician to verify the disability of Federal employees' children ages 26 and over for such children to retain health benefits under their employed parents' plans. The physician must verify that the adult child's disability (1) Pre-dates the child's 26th birthday; (2) is very serious; and (3) will continue for at least one year. Physicians use Form SSA–604, the Certificate of Incapacity, to document this information. The respondents are physicians of SSA employees' children ages 26 or over who are seeking to retain health benefits under their parent's FEHB coverage.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
SSA–604	50	1	45	38

8. *Centenarian Project Development Worksheets: Face-to-Face Interview and Telephone Interview—20 CFR 416.204(b) and 422.135—0960–0780.* SSA conducts interviews with centenary title II beneficiaries and title XVI recipients age 100 and older to: (1) Assess if the beneficiaries are still living; (2) prevent fraud, through either identity misrepresentation or representative payee misuse of funds; and (3) evaluate the well-being of the beneficiaries. SSA field office personnel obtain the information through one-time interviews with the centenarians. If the centenarians have representatives or caregivers, SSA personnel invite them to the interviews. During the interview, SSA employees make overall observations of the centenarian and their representative payee (if applicable). The interviewer uses the appropriate Centenarian Development Worksheet as a guide for the interview, in addition to documenting findings during the interview. Non-completion of the Worksheets, or refusal of the interview, does not result in the suspension of the centenarian's payments. SSA conducts the interview either over the telephone or through a face-to-face discussion with the centenarian. This is a national project

for our title II beneficiaries and title XVI recipients. Respondents are SSI recipients or Social Security beneficiaries 100 years old or older, their representative payees, or their caregivers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (min)	Estimated total annual burden (hours)
Centenarian Worksheets: Face-to-Face Interview; Telephone Interview	22,000	1	15	5,500

Dated: March 15, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–06350 Filed 3–19–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8241]

Notice of Public Meeting on FY 2014 U.S. Refugee Admissions Program

There will be a meeting on the President's FY 2014 U.S. Refugee Admissions Program on Wednesday, May 15, 2013 from 2 p.m. to 4 p.m. The meeting will be held at the Department of State's Harry S. Truman Building's George C. Marshall Conference Room, 2201 C Street NW., Washington, DC 20520. The meeting's purpose is to hear the views of attendees on the appropriate size and scope of the FY 2014 U.S. Refugee Admissions Program.

Persons wishing to attend this meeting must notify the Bureau of Population, Refugees, and Migration at telephone (202) 453–9257 by 5 p.m. on Wednesday, May 8, 2013, to reserve a seat. Persons wishing to present written comments should submit them by 5 p.m. on Wednesday, May 8, 2013 via email to *spruellda@state.gov* or fax (202) 453–9393.

The use of any video or audio recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at this event.

If you have questions about the public meeting, please contact Delicia Spruell, PRM/Admissions Program Officer at (202) 453–9257. Information about the U.S. Refugee Admissions Program may be found at *http://www.state.gov/g/prm/.*

Dated: March 12, 2013.

David Robinson,

Principal Deputy Assistant Secretary, Bureau of Population, Refugees, and Migration, Department of State.

[FR Doc. 2013–06388 Filed 3–19–13; 8:45 am]

BILLING CODE 4710–33–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: February 1, 2013, through February 28, 2013.

ADDRESSES: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; email: *rcairo@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(f)

1. EOG Resources, Inc., Pad ID: KENNEDY A Pad, ABR–201302001, Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 7, 2013.
2. EOG Resources, Inc., Pad ID: JENKINS B Pad, ABR–201302002, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 8, 2013.
3. Southwestern Energy Production Company, Pad ID: FLICKS RUN EAST PAD, ABR–201302003, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: February 14, 2013.
4. Chief Oil & Gas LLC, Pad ID: Lathrop Farm Trust Drilling Pad, ABR–201302004, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: February 28, 2013.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: March 11, 2013.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2013–06300 Filed 3–19–13; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind a Notice of Intent To Prepare an Environmental Impact Statement: Dallas and Ellis Counties, Texas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice to rescind a Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the Notice of Intent (NOI) and Draft Environmental Impact Statement (EIS) for proposed Loop 9 from US 287 to IH 20. A NOI to prepare an EIS for proposed Loop 9 was published in the **Federal Register** on August 2, 2002 (Volume 67, No. 149, Page 50504), with a subsequent revision to the project limits published in the **Federal Register** on January 20, 2004 (Vol. 69, No. 12, Page 2809).

FOR FURTHER INFORMATION CONTACT: Mr. Salvador Deocampo, District Engineer, District A, Federal Highway Administration, Texas Division, 300 East 8th Street, Room 826, Austin, Texas 78701. Telephone: (512) 536–5950, Email: *salvador.deocampo@dot.gov*. The FHWA Texas Division Office's normal business hours are 8 a.m. to 5 p.m. (Central Time).

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation (TxDOT), published a NOI in the **Federal Register** on August 2, 2002 (Volume 67, No. 149, Page 50504), and a NOI revision was made on January 20, 2004 (Vol. 69, No. 12, Page 2809) to prepare an EIS for Loop 9 from US 287 to IH 20 in Dallas and Ellis Counties. The original notice

can be viewed electronically at: *http://www.gpo.gov/fdsys/pkg/FR-2002-08-02/html/02-19541.htm*. The revised notice can be viewed electronically at: *http://www.gpo.gov/fdsys/pkg/FR-2004-01-20/html/04-1131.htm*. As a result of the retirement of the Trans Texas Corridor concept plan and change in the regional growth projections in the study area, it was determined that the travel demand in the Loop 9 project area would not warrant the project as originally proposed. TxDOT intends to conduct a feasibility study to determine a new direction for this transportation corridor. As a result, the above mentioned notices are rescinded.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: March 12, 2013.

Salvador Deocampo,

District Engineer.

[FR Doc. 2013–06302 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0379]

Agency Information Collection Activities; Approval of a Currently Approved Information Collection Request: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property; Correction

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; correction.

SUMMARY: The Federal Motor Carrier Safety Administration published a document in the **Federal Register** of March 1, 2013, concerning request for comments on the approval of a currently approved information collection request entitled, ''Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property.'' The document contained an incorrect Docket Number.

FOR FURTHER INFORMATION CONTACT: Gerald Folsom, 202–385–2412.

Correction

In the **Federal Register** of March 1, 2013, in FR Doc. FMCSA–2013–0379, on page 13932, in the first column, correct the ''Docket Numbers'' to read:

Docket No. FMCSA–2012–0379; and

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2012–0379.

Issued on: March 11, 2013.

G. Kelly Leone,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2013–06361 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0018]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated December 26, 2102, CSX Transportation, Inc. (CSX) seeks approval from the Federal Railroad Administration (FRA) for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0018.

CSX proposes to discontinue the use of, and to remove, the pipe-connected approach-locked derails at the Aberdeen & Rockfish Railroad Company's (A&R) crossing at Milepost A210.62 in CSX's Florence Division, South End Subdivision, in Fayetteville, NC. A&R, which operates the intersecting rail line, has been notified of the modifications. CSX has been granted approval, through an application in Docket Number FRA–2010–0160, for other modifications that it will make to the signal system at the A&R crossing in preparation for the installation of Positive Train Control.

CSX intends to modernize this location by installing new microprocessor-based equipment, houses, and signals. The existing dwarf signals on A&R will be replaced with high signals for improved visibility and push-button operation. A one-way, low-speed diamond frog will also be installed at this location, limiting the speed on A&R to 10 mph or less.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 6, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on March 14, 2013.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2013–06364 Filed 3–19–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 303 (Sub-No. 40X)]

Wisconsin Central Ltd.—Abandonment Exemption—in Kaukauna, Outagamie County, WI

Wisconsin Central Ltd. (WCL) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt Abandonments* to abandon 1.10

miles of rail line between milepost 114.00 and milepost 112.90 in Kaukauna, Outagamie County, Wis. The line traverses United States Postal Service Zip Code 54130.

WCL has certified that: (1) No local traffic has moved over the line for at least two years; (2) there is no overhead traffic on the line that would have to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 19, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 1, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 9, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to WCL's representative: Thomas J. Healey, 17641 S. Ashland Avenue, Homeland, IL 60430–1345.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

WCL has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by March 25, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), WCL shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by WCL's filing of a notice of consummation by March 20, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: March 15, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–06411 Filed 3–19–13; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

30-Day Notice and Request for Comments

AGENCY: Surface Transportation Board, DOT.

ACTION: 30-day notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval of the information collection—System Diagram Maps—further described below. The Board previously published a notice about this collection in the **Federal Register** on January 17, 2013, at 78 FR 3968. That notice allowed for a 60-day public review and comment period. No comments were received.

Comments may now be submitted to OMB concerning (1) whether the collection is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate. Comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: System Diagram Maps (or, in the case of Class III carriers, the alternative narrative description of rail system).

OMB Control Number: 2140–0003.

Form Number: None.

Type of Review: Extension without change.

Respondents: Common carrier freight railroads that are either new or reporting changes in the status of one or more of their rail lines.

Number of Respondents: 1.

Estimated Time Per Response: 7.1 hours, based on average time reported in informal survey of respondents.

Frequency of Response: 1.

Total Annual Burden Hours: 7.1 hours.

Total Annualized Non-Hourly Cost: $1,305, on average.

Needs and Uses: Under 49 CFR 1152.10–1152.13, all railroads subject to the Board's jurisdiction are required to keep current system diagram maps on file with the Board, although a Class III carrier (a carrier with assets of not more than $34,656,908 in 2011 dollars) may submit the same information in narrative form. The information sought in this collection identifies all lines in a particular railroad's system, categorized to indicate the likelihood that service on a particular line will be abandoned and/or whether service on a line is currently provided under the financial assistance provisions of 49 U.S.C. 10904. Carriers are obligated to amend and update these maps (or narratives) as the line designations change. 49 CFR 1152.13(b). The Board

uses this information to facilitate informed decision making, and this information, which is available to the public from the carrier by request, § 1152.12(c)(3), may serve as notice to the shipping public of the carrier's intent to abandon or retain a line.

Deadline: Persons wishing to comment on this information collection should submit comments by April 19, 2013.

ADDRESSES: Written comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Kimberly Nelson, Surface Transportation Board Desk Officer, by fax at (202) 395–5167; by mail at OMB, Room 10235, 725 17th Street NW., Washington, DC 20500; or by email at *OIRA_SUBMISSION@OMB.EOP.GOV.* When submitting comments, refer to the OMB number and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Marilyn Levitt at (202) 245–0269 or *levittm@stb.dot.gov.* The regulations governing this collection may be viewed at *http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div6&view=text&node=49:8.1.1.2.67.2&idno=49.* A copy of the regulations pertaining to this information collection may be obtained by contacting Christine Glaab, STB Librarian at (202) 245–0406 or *STBLibrary@stb.dot.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. Collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: March 15, 2013.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–06398 Filed 3–19–13; 8:45 am]

BILLING CODE 4915–01–P

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